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Hold For: Perry, Patrick, Farmer & Michaux

NORTH CAROLINA
WAKE COUNTY

**DECLARATION OF
PROTECTIVE COVENANTS
(CANTERBURY SUBDIVISION IN
MACARTHUR PARK P.U.D.)**

THIS DECLARATION OF PROTECTIVE COVENANTS (hereinafter referred to in its entirety as "Declaration") is made this _____ day of _____, 199__, by M/I Schottenstein Homes, Inc., a Delaware corporation, hereinafter called "Declarant" and Parkway W/H, a North Carolina general partnership;

WITNESSETH:

WHEREAS, the Declarant is the owner of the real property described in Article II of this Declaration (hereinafter referred to in its entirety as the "Property"), which Declarant intends to subdivide into single-family residential lots (such single-family residential lots being referred to herein individually as a "Lot" and collectively as the "Lots"), which subdivision shall have the name "Canterbury" and hereinafter shall be referred to as the "Subdivision";

AND WHEREAS, Declarant desires to subject the Property to the covenants, conditions, easements and restrictions hereinafter set forth, each and all of which protective covenants is and are for the benefit of the Property and each and every part, Lot or parcel thereof and for each owner of any part, Lot or parcel thereof, and which protective covenants shall inure to the benefit of and pass and run with the Property and each and every part, Lot or parcel thereof, and shall apply to and bind all present and future owners of any part or all of the Property and their successors in interest;

WHEREAS, the Property, by instrument recorded in the Wake County Registry in Book 5047, page 0096, is subject to the Master Declarations of Covenants and Restrictions of the Parkway Community Association, Inc. recorded in Book 4158, page 268, Wake County Registry, as expanded or amended by documents recorded in Book 4202, page 0739, Book 4166, page 275, Book 4681, page 0562, and Book 5236, page 0609, Wake County Registry, said

declaration and documents together hereinafter being referred to as the "Master Covenants", and the Declaration of Covenants and Restrictions of the Parkway Unit Owners Association, Inc. recorded in Book 4202, page 687, Wake County Registry, and amended in Book 5236, page 0616, Wake County Registry, hereinafter being referred to as the "Sub-Master Covenants"; and

WHEREAS, Parkway W/H, pursuant to that certain contract between Parkway W/H and Declarant for the sale and purchase of that tract of real property known as "MR-2" as shown on a map recorded in the Wake County Registry in Book of Maps 1990, page 25, joins in this Declaration to indicate its consent hereto and to confirm that this Declaration meets the requirements of said contract for an additional subdivision declaration of protective covenants to which the lots to be subdivided out of the MR-2 tract are to be subjected.

NOW, THEREFORE, the Declarant hereby declares that the Property, and each and every part, Lot or parcel thereof, is and shall be further held, transferred, sold and conveyed subject to the protective covenants set forth below.

ARTICLE I

For the purposes of this Declaration, a "Lot" shall mean and refer to any numbered or lettered plot or parcel of real property shown on any plat recorded in the Wake County Registry and approved for use as a single-family residential lot by the Town of Cary or other governmental entity having jurisdiction thereof, and which either is part of the Property or otherwise is subjected to this Declaration in the manner provided herein. Provided, however, any portion of the Property (or any other property subjected to this Declaration) which has been designated as "Dedicated Open Space" ("D.O.S.") or "Common Open Space" ("C.O.S.") or substantially similar designation on any such recorded map shall not be considered as a Lot or any part thereof.

ARTICLE II

The Property which is and shall be held, transferred, sold and conveyed subject to the protective covenants set forth in the Articles of this Declaration is located in the County of Wake, State of North Carolina, and is more particularly described as follows:

All of tract MR-2, consisting of 12.990 acres, as the same is shown on a map by Kenneth Close, Inc., entitled "IP-C PARKWAY TRADE CENTER, MR-1, MR-2, SF-3, C-1, C-1A & COMMON OPEN SPACE MacARTHUR PARK", dated May 17, 1989, and recorded in the Wake County, North Carolina Registry in Book of Maps 1990, page 25, said map being incorporated by reference as if fully set out herein.

No property or Lots other than that described herein shall be deemed subject to this Declaration until specifically made subject hereto by a supplemental declaration signed by Declarant (and the owner of said property if different from Declarant) and recorded in the Wake County, North Carolina Registry. Declarant reserves the right, at any time and from time to time, by one or more supplemental declarations, to subject additional property or Lots to this Declaration in the foregoing manner.

ARTICLE III

The Lots to be subdivided out of the Property also shall be known and described as residential lots. No building (except as permitted under Article VIII hereof or as otherwise allowed by this Declaration) shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling with a private garage for not more than three cars.

ARTICLE IV

Unless prior architectural approval is obtained pursuant to Article XIII hereof, all dwellings constructed on the Lots subject to this Declaration shall not exceed two stories in height (exclusive of basement and attic), shall have an enclosed area of the main structure, exclusive of garages, open and screened-in porches, decks, patios and chimneys of no less than 1,100 square feet. Should any question arise as to whether or not any structure or improvement, other than those items specifically excluded by this Article, is part of the dwelling, the person or entity having authority over architectural approvals as referenced in Article XIII herein shall have the authority to make such determination, and the decision of such person or entity shall be final.

ARTICLE V

Unless prior architectural approval is obtained pursuant to Article XIII hereof, no dwelling shall be erected or placed or located on any Lot nearer to the front lot line or line adjacent to any street than 20 feet, nor nearer to any rear lot line than 15 feet, nor nearer to any side lot line than 5 feet, nor nearer to any buffer shown on any recorded map of such Lot than 15 feet (provided, that structures other than the dwelling and garage may be located no nearer than 5 feet to any such buffer); provided, however, that on corner Lots the dwelling may face either street and may be located as close as 15 feet to the side lot line adjacent to one street if the same is at least 20 feet from the front lot line adjacent to the other street. For the purpose of determining the foregoing building setback distances as established by this Declaration, eaves, steps, stoops, open and screened-in porches, overhangs, bay windows, decks, patios and chimneys shall not be considered as a part of the dwelling, but the location of such items on a Lot shall be subject to the architectural approval provisions contained in Article XIII herein.

Provided, notwithstanding anything to the contrary that may appear herein, no dwelling or other improvement on a Lot shall encroach upon another Lot. Should any question arise as to whether or not any portion of a dwelling (other than the foregoing items specified as not being part of the dwelling) should be considered as part of the dwelling for the purpose of determining the foregoing building setback distances, the person or entity having the authority over architectural approvals as referenced in Article XIII herein shall have the authority to make such determination and the decision of such person or entity shall be final.

ARTICLE VI

Except as otherwise provided in this Article VI, no single-family residential dwelling shall be constructed or placed on any Lot subject to this Declaration unless such Lot (i) has a width of 55 feet or more at the minimum front building setback line (as established by this Declaration) and (ii) has an area of 6,000 square feet or more. Provided, however, a single-family residential dwelling may be constructed or placed on each Lot as defined in Article I of this Declaration, regardless of the width of any such Lot at the minimum front building setback line or of the square footage area of any such Lot. No Lot subjected to this Declaration shall be further subdivided without Declarant's prior written approval.

ARTICLE VII

No noxious or offensive trade or activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No trade materials or inventories (other than materials used for construction of dwellings or other approved structures on the Lots) may be stored upon any Lot and no trucks (except for pick-up trucks used as an ordinary means of transportation by the residents or guests of residents of single-family dwellings located on Lots subject to this Declaration), tractors, inoperable automobiles, rubbish, trash, or unsightly materials of any kind may be stored, regularly placed, or allowed to remain on any Lot (except that trash, leaves, tree limbs, materials for recycling pick-up and similar items may be kept or placed on a Lot temporarily and only for such time as is reasonably necessary to enable the appropriate governmental or private entity to remove same from the Lot). No business activity or trade of any kind whatsoever, which shall include but not be limited to the use of any residence as a doctor's office or professional office of any kind, a fraternity house, a rooming house, a boarding house, an antique shop or gift shop, shall be conducted on any Lot; provided, however, upon the prior approval of the Declarant, and upon such terms and conditions as are specified in the approval, a dwelling or temporary trailer placed on a Lot may be utilized as a temporary construction office or model home/sales facility. Except with the prior approval of Declarant and the Architectural Review Board established by the Sub-Master Covenants (which approval may be withheld for any reason), no communication tower, television or radio antenna or tower or satellite dish shall be erected or placed upon any Lot. Each Lot owner shall provide receptacles for garbage in an area of such owner's Lot not visible from the street that the front of the dwelling located on such Lot faces.

ARTICLE VIII

No trailer (except temporary construction/sales trailer(s) approved pursuant to Article VII), mobile home, tent, shack, or barn shall be erected or placed or permitted to remain on any Lot subject to this Declaration. Upon approval by the Architectural Review Board established under Article VII of the Sub-Master Covenants, a storage shed or building may be constructed or placed at or near the rear of each Lot. No travel trailers, recreational vehicles or accessories, campers or boats shall be stored or allowed to remain on any Lot subject to this Declaration, unless the same is stored in a garage and is screened from view from any street or Lot in the Subdivision.

ARTICLE IX

Declarant reserves the right at any time and from time to time to waive violations of the front line, front street, side street and side line building setback requirements established by this Declaration that do not exceed 25% of the applicable setback distances (for example, if the applicable setback distance is 10 feet, and the violation does not exceed 2.5 feet, Declarant has the right under this Article to waive the violation). Such waivers shall be effective only upon the recordation of same in the Wake County, North Carolina Registry, but no such waiver shall be effective to waive any setback requirements in effect under applicable Town of Cary laws or regulations.

ARTICLE X

No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets (not to exceed four (4) such household pets at any one time) may be kept, provided that they are not bred or maintained for any commercial purpose.

ARTICLE XI

No Lot or portion thereof shall be dedicated or used for a public street without the written consent of the Declarant, its successors or assigns.

ARTICLE XII

No hedge or screen planting shall be erected or permitted to remain on any Lot closer to the front lot line than the front of the dwelling erected on said Lot.

ARTICLE XIII

ARCHITECTURAL APPROVAL. No dwelling or other building, fence, wall, mailbox or other structure or improvement shall be erected, placed, or altered on any Lot until the provisions of Article VII of the Sub-Master Covenants have been complied with.

ARTICLE XIV

Enforcement of this Declaration shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant hereof, either to restrain violation or to recover damages.

ARTICLE XV

Invalidation of any one or more of the covenants contained in this Declaration by judgment or court order shall in no way affect any of the other covenants and provisions hereof, which shall remain in full force and effect.

ARTICLE XVI

This Declaration shall run with the land and shall be binding on the Property and on all owners of Lots subjected to this Declaration and all persons claiming under them for a period of twenty-five years from the date this Declaration is recorded, after which time this Declaration shall be automatically extended for successive periods of ten years unless, prior to the end of the applicable time period, an instrument signed by a majority of the then owners of the Lots subject to this Declaration has been recorded agreeing to terminate this Declaration. This Declaration may be amended or modified at any time by the recording in the Wake County Registry of a document containing the amendments or modifications and signed by the record owners of not less than two-thirds (2/3) of the Lots subject to this Declaration at the time of the recording; provided, however, so long as Declarant owns any Lots subject to this Declaration, or any land shown on the Master Plan for the MacArthur Park Planned Unit Development intended by Declarant for future subjection hereto, such amendment or modification shall not become effective until approved in writing by Declarant or its successors or assigns and by Parkway Associates, the declarant named in the Sub-Master Covenants, its successors or assigns.

ARTICLE XVII

Declarant reserves the right to subject the Property to a contract with Carolina Power and Light Company for the installation of underground electric cables and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to Carolina Power and Light Company by the owner of each Lot. Declarant further

reserves the right, in connection with the development of the Subdivision, to grant and/or dedicate to public or private use temporary and/or permanent rights of way and easements as Declarant, in its discretion, from time to time deems necessary or desirable.

ARTICLE XVIII

Compliance with the provisions of this Declaration shall not eliminate the necessity of complying with all laws, ordinances or regulations of any governmental entity having jurisdiction over the Lots subject hereto that impose more restrictive requirements than those contained herein (for example, if the governmental requirement for front lot line building setback exceeds 20 feet, the governmental requirement shall control). It shall be the responsibility of the owner of each Lot subject to this Declaration to comply with all such governmental requirements and, in addition, to comply with all applicable governmental building code and other laws, ordinances and regulations.

ARTICLE XIX

Should there be any conflict between the provisions of this Declaration and the provisions of the Master Declaration or between the provisions of this Declaration and the provisions of the Sub-Master Declaration, the provisions of the Master Declaration or the Sub-Master Declaration, as the case may be, shall control.

ARTICLE XX

Declarant reserves the right at any time and from time to time to assign its rights and powers contained in this Declaration (including, but not limited to, the right and power to waive violations of the setback requirements) to any one or more of the following: the "Company", as that term is defined in the Sub-Master Covenants; the Architectural Review board as established under Article VII of the Sub-Master Covenants; the Board of Directors of the Parkway Unit Owners Association, Inc.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed in its corporate name by its duly authorized officers and its seal to be hereunto affixed, all by authority of its Board of Directors, and Parkway W/H has adopted the word "SEAL" appearing beside its name below as its Seal for the purpose of the execution of this instrument and has caused this instrument to be executed by its partner, Westminster Company, pursuant to authority duly given by Parkway W/H, and Westminster Company, as a partner of Parkway W/H, has caused this instrument to be executed in its corporate name by its duly authorized officers and its seal to be hereunto affixed, all by authority of its Board of Directors, each party having executed this instrument on the date indicated in the acknowledgment of said party's signature, the last date of which shall be the date of execution of this instrument and shall be inserted in the first paragraph hereof.

M/I Schottenstein Homes, Inc.,
a Delaware corporation

Attest:

Secretary
(affix corporate seal here)

By: R. Lawrence Smith
V. President

Parkway W/H, a North Carolina
General Partnership (SEAL)

By: Westminster Company, Partner

Attest:

Rosemary Gray
Asst. Secretary
(affix corporate seal here)

By: Westminster Company
Vice-President

STATE OF _____, COUNTY OF _____

I _____, a Notary Public of the County and State aforesaid, certify that _____, personally came before me this day and acknowledged that _____ he is _____ Secretary of M/I Schottenstein Homes, Inc., a Delaware corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its _____ President, sealed with its corporate seal and attested by _____ as its _____ Secretary.

Witness my hand and official stamp or seal, this _____ day of _____, 199____.

Notary Public

My Commission Expires: _____

NORTH CAROLINA, WAKE COUNTY

I Vickie S Ryals, a Notary Public of the County and State aforesaid, certify that Rosemary Gray, personally came before me this day and acknowledged that she is Assistant Secretary of Westminster Company, a North Carolina corporation and partner of Parkway W/H, and that by authority duly given and as the act of the corporation as partner of Parkway W/H, the foregoing instrument was signed in its name by its Vice-President, sealed with its corporate seal and attested by her as its Assistant Secretary.

Witness my hand and official stamp or seal, this 10th day of December, 1992.

Vickie S Ryals

Notary Public

My Commission Expires: 5-13-96

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Canterbury Subdivision, page 10

The foregoing Certificate(s) of _____

is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

Kenneth C. Wilkins, Register of Deeds for Wake County

By: _____ Deputy/Assistant Register of Deeds