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STATE OF SOUTH CAROLINA: RESTRICTIONS AND PROTECTIVE COVENANTS FOR COUNTY OF GREENVILLE: KITTLESON PLACE SUBDIVISION

Whereas Preferred Capital II, LLC, hereinafter called "Developer" is the owner of all that certain real estate in Greenville County, South Carolina, being shown and designated on the survey containing 50.248 acres and recorded in the Register of Deeds office for Greenville County, in Plat Book 40J, pages 86 and 87. These restrictions do hereby replace and supersede those original covenants and restrictions for Kittleson Place recorded on September 15, 1999 in the Register of Deeds office, Book 1866, pages 144 through 153.

Whereas, Developer wishes to provide a uniform use, enjoyment, and maintenance of the above referenced real estate; and

Whereas, Developer wishes to impose on the above referenced real estate certain restrictions as to the use and maintenance of said real estate; and

Whereas, Developer desires to promote the enjoyment of the lots by the owners thereof by encouraging a proper, and as applicable a uniform development of said property to the end that said property is developed into a single family residential subdivision and is so maintained by each lot owner for the benefit of all lot owners;

NOW, Therefore, for and in consideration of the covenants and conditions herein created for the benefit of the owners of the aforementioned real estate, their successors and assigns, the following restrictive covenants place upon all the property shown on the aforementioned recorded plat(s).

ARTICLE I - USES PERMITTED AND PROHIBITED

- 1. Uses Permitted. All parcels or tracts shall be used exclusively for single family residential dwellings.
2. Limitation on Number of Dwellings. There shall not be built on any parcel more than one (1) building to be used as a dwelling facility. Additional buildings for non-residential purposes shall be allowed as provided herein.
3. Re-cutting Tracts. No tracts shall be re-cut to a smaller size without approval of the Architectural Review Committee. Nothing herein contained shall be construed to prohibit the use of one tract and a portion of another tract as a single residential building site, provided that said tracts, when so formed, would otherwise meet the requirements as contained herein as to lot size and setback limitations.

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4. **Prohibited Structures.** No motor home, camper, trailer, basement, tent, shack, garage, barn, or similar outbuilding erected upon any parcel shall be at any time used as a residence.
5. **Business Prohibited.** No structure at any time situated on any parcel shall be used for any business, commercial, amusement, hospital, sanitarium, school, clubhouse, or manufacturing purposes. Developer, or any permittee of Developer may use a dwelling as a sales or model unit on one or more lots through the year 2005.
6. **Rental Facilities.** No part of any structure shall be used for the purpose of renting a room, or rooms, therein. No facility may be used, in any manner, for the housing of multi-family units. The provisions of this paragraph are not intended to prevent rental of a single-family home to be a single family unit such that the home is only occupied by one family unit at any given time.
7. **Animals.** No animals shall be kept, maintained or quartered on any tract except:
  - (a) Domestic house pets, such as dogs and cats (which number shall be within reason).
  - (b) No destructive, unfriendly, or domestic animal which becomes a nuisance (including excessive number of pets) to the neighborhood shall be permitted. The Homeowners Association shall have the right, but not a duty to have said animal(s) picked up without liability to any owner(s) of said animal(s).
  - (c) All animals shall be housed within the owner's dwelling lot unless said animal is on a leash or similar restraining device. Any animal found roaming freely on an adjoining lot owner's property shall automatically be deemed to come within Paragraph (b) above as a "nuisance" animal subject to the provisions of said paragraph.
8. **Refuse.** No parcel owner shall engage in any activity which will result in the maintenance, deposit, or accumulation of trash, refuse, debris, mud, or other objectionable matter on the parcel owner's lot or in the subdivision. During any construction, the parcel owner is responsible for maintaining a clean and orderly lot and to take such steps as necessary to avoid erosion. All who place a home on a lot must clean up after home has been installed. All trash and debris must be cleaned up.
9. **Nuisances.** No noxious or offensive activity shall be carried on anywhere on the property subject to these covenants, nor shall anything be done thereon which may be or become a nuisance or menace to the neighborhood.
10. **Use of Recreational and other Vehicles.** Any motor scooter, ATV, motorcycle, go-cart, or similar vehicle shall be equipped with proper mufflers so as not to cause excessive noises and shall not be used in such a way as to become a nuisance. No roadways within the subdivision shall be used for racing or recreational driving of any of the above designed type vehicles.

**ARTICLE II - STANDARDS AND REQUIREMENTS FOR BUILDINGS**

1. **Size.** All homes shall contain a minimum of 1000 square feet heated living area. Single wide manufactured homes will NOT be permitted.
2. **Garages and Accessory Structures.** Garages and accessory structures shall be permitted subject to approval by Architectural Review Committee.
3. **Siding.** All homes shall be constructed of or covered by quality vinyl siding, stucco or brick materials.
4. **Permanent Structure.** All housing shall be made permanent. In the case of manufactured housing, all tongues, axles, wheels and other apparatus used of the purpose of transporting said homes, shall be removed from the home. Modular and stick built homes are permitted and must be approved by the Architectural Review Committee.
5. **Underpinning.** All homes must have brick underpinning, or other acceptable material (must be approved by Architectural Committee) which shall be completed within forty five (45) days of the home being placed on the lot and prior to occupancy (any exception must be approved by Architectural Committee). Front porches must be made of brick or wood. All front and rear porches or decks shall be not less than 48 square feet each.
6. **Age of home.** All manufactured housing shall be newly constructed or be in like new appearance and condition subject to the sole discretion and approval of the Architectural Review Committee.
7. **Design review.** All houses, as to appearance and design, must be approved by the Architectural Review Committee.
8. **Roof.** All houses shall have a shingle roof which shall have adequate pitch as approved by the Architectural Review Committee.
9. **Front Entry.** All houses must have a front entry except on those lots where end entrances would work better, which changes shall be approved by the Architectural Review Committee.
10. **Driveway.** Each home shall be accessed by a concrete or asphalt drive, the design and location of which shall be approved by the Architectural Review Committee. Driveways should accommodate four (4) cars for off street parking. There should be no parking on the street except for temporary or special occasions.

11. Fencing. All fencing, both as to material, design, and placement, must be approved by the Architectural Review Committee. Under no circumstances shall any fence be built in the front yard.
12. Developer may add other property to this subdivision without obtaining consent from other property owners in this subdivision.

### **ARTICLE III - ARCHITECTURAL REVIEW COMMITTEE**

1. Purpose and Power. The Architectural Review Committee is hereby established and granted review powers for the purpose of aiding the development of the real property in keeping with the guidelines and restrictions set forth herein. This means that no building, structure, fence, wall, outbuilding, driveway, screened enclosure, or other structural improvement, regardless of size or purpose, whether attached to or detached from a main residence, shall be commenced, placed, erected, or allowed to remain on any parcel unless building plans and specifications showing the nature, kind, shape, height, size, materials, floor plans, exterior color schemes, landscape plans, location, and orientation on the parcel (together with such other information as shall be reasonably required by the Architectural Review Committee) shall be initiated until said plans are reviewed and found to be in accordance with the criteria set forth in these covenants.
2. Scope of Power. The Architectural Review Committee shall not be responsible for detecting or pointing out defects in plans or specifications or for defects in improvements. The Architectural Review Committee's review of plans is limited solely to the insuring that the improvements comply with these restrictions. The Architectural Review Committee in no way makes any review as to the structural or engineering integrity of the proposed improvement or whether said improvements comply with any applicable building or zoning requirements.
3. Other Powers. Additionally, the Architectural Review Committee shall have all powers and authority elsewhere conferred upon it under the terms and conditions of these covenants.
4. Committee Members. The Architectural Review Committee shall be composed of at least two (2) but not more than five (5) persons as shall be designated, in writing by Developer from time to time. In the event of the failure or inability for any reason of a member to act, or due to resignation from the Architectural Review Committee, the vacancy created shall be filled either permanently or temporarily, as necessary, by the remaining member or members of the Architectural Review Committee. All matters coming before the Architectural Review Committee for approval shall require a two-thirds (2/3) majority vote.
5. Initial Members. The initial membership of the Architectural Review Committee shall consist of the Developer.

6. **Failure to Approve or Disapprove.** In the event that the Architectural Review Committee fails to approve or disapprove or otherwise act upon any matter within the scope of its authority within fifteen (15) business days after receipt of a written application for a permit, it shall be deemed approved unless suit to enjoin such matter of thing has been commenced prior to or after receipt of said application, in which case suit shall be deemed a disapproval. Approval shall mean that this covenant shall be deemed to have been fully complied with as to matters set forth in the application; and no suit or claim thereafter be available to the Architectural Review Committee, the Homeowner's Association, or to the Owner of any parcel as to said matters.
7. **Application Time.** Written application for a permit as required herein shall be made to the Architectural Review Committee not fewer than fifteen (15) business days prior to the time the permit is needed.

#### **ARTICLE IV - HOMEOWNERS ASSOCIATION**

1. **Formation.** The Homeowner's Association shall be deemed to consist of each owner of a lot subject to these restrictive covenants. The Homeowner's Association shall be deemed to exist as of the date of recording of the Subdivision Plat. Initially, Howard Renfer shall serve as President and Secretary of the Association and Dan M. Salle' shall serve as Vice-President and Treasurer. Upon the sale of seventy-five (75%) per cent of the lots to individual homeowners, Howard Renfer and Dan Salle' shall resign their positions and the members at that time shall elect new officers. There shall be one vote for each lot whether owned individually, jointly or as tenants in common, or whether owned by partnership or corporation. Each owner shall be entitled to one vote per parcel owned. In the event of co-ownership of a parcel the co-owners shall be entitled to one vote collectively and shall determine among themselves how said vote is to be cast and make said decision known to the Association. The Homeowner's Association may but is not required to be incorporated, the incorporation or lack thereof to be at the discretion of the property owners.
2. **Powers and Functions of Homeowners Association.** The Homeowner's Association is empowered to perform any and all of the following functions; but, except as to the maintenance of the retention pond, it shall be under no duty to perform, or to continue to perform, any of said functions, to-wit:
  - (a) Payment of the necessary charges and expenses of the operation of the Homeowner's Association.
  - (b) Each sold lot shall be subject to an annual maintenance charge or assessment to defray the costs of the Association in carrying out its purpose. Initially, the amount of the charge shall be Sixty (\$60) Dollars per year. The assessment period shall run from January through December of each year. Pro-rated assessments shall be due at the closing of individual lots and shall be paid to the Kittleson Place Homeowners Association.

- (c) Maintaining the retention pond serving the properties.
  - (d) Improving, repairing, cleaning, maintaining, and beautifying entrance and buffer areas in which all homeowner's benefit.
  - (e) Collection, in addition to the normal maintenance charges or assessments, of any expenses incident to the enforcement of these covenants, or the exercise of any powers conferred herein.
  - (f) Such other purposes and functions, which in the opinion of the officers, directors, and members of the Homeowners Association may be necessary for the general benefit of the parcel owners.
  - (g) Encouragement of the botanical beautification of all parcels in the subdivision.
  - (h) For caring for vacant and untended land, if any, within the subdivision, removing grass, weeds therefrom, and doing any other work necessary or desirable in the opinion of the officers of the Association to keep such property neat and in good order for the general benefit of all the owners.
  - (i) Providing for community street lights.
3. **Quorum and Voting.** For purposes of transacting business, any decision resulting in additional assessments shall require a vote of a majority of the owners of the parcels affected by the restrictive covenants. Any decision modifying these restrictive covenants shall require not less than 75 percent vote of the owners of the parcels subject to these restrictive covenants.
4. The Association shall have the right to suspend the voting rights of a resident for any period during which any assessment against his property remains unpaid. In the event of nonpayment of any assessment as set forth herein, the Association may bring an action at law against the owner(s) personally obligated to pay same or foreclose a lien against the property in the same manner that a real estate mortgage is foreclosed, and interest, costs and attorney's fees shall be added to the amount of such assessment. The lien of the Association against the property must be established by, and shall be effective from the time of filing of a Notice of Lis Pendens in the Office of the Clerk of Court of Greenville County. Failure by the association, or any owner, to enforce any covenant or lien herein contained shall in no event be deemed a waiver of its right to do so.

#### **ARTICLE V - TERM AND ENFORCEMENT**

1. **Term of Covenants.** These covenants and restrictions, as altered and amended from time to time as provided herein, unless released or waived as herein provided, shall be deemed covenants running with the land and shall remain in full force and effect until the first day of January, 2025. They shall automatically renew every 15 years unless six months prior to expiration an instrument signed by a majority of the then owners of the lots has been recorded agreeing to change said covenants in whole or in part.
2. **Enforcement.** If Owner, its successors and assigns or any person owning any real property subject to the within covenants, shall violate or attempt to violate any of the covenants herein,

it shall be lawful for the Homeowners Association or any person owning a parcel subject to these covenants to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any of such covenants and either to prevent him or them from doing so or to recover damages and other dues for such violation or both.

3. **Loan Requirements.** If any of these covenants shall be found to be contrary to the recommendations of policies of any recognized institution or agency, public or private, granting or insuring loans, and shall render any parcel unacceptable for any such loan, Owner, shall have the authority to alter, amend, or annual any such covenants as may be necessary to make any to the parcels herein acceptable and eligible for such loan.
4. **Government Compliance.** All restrictive covenants listed and or contained herein are subject to compliance with the State of South Carolina and Greenville County health ordinances, restrictions, regulations and zoning laws.

#### **ARTICLE VI - ARCHITECTUAL PLANNING CRITERIA**

In the fulfilling of its powers and duties set forth herein the Architectural Review Committee shall be guided by, but not limited to, the following criteria:

1. **Objectives.** It is the plan of Owner to develop Kittleson Place into a community of quality manufactured, modular, or stick built homes. The Architectural Review Committee shall evaluate the proposed improvements with emphasis upon their harmonious incorporation into the natural environment and the community as a whole, with specific emphasis on external design, location, topography and conformity to the restrictive covenants imposed hereunder. Owner reserves the right to modify these restrictions at his sole option during the initial development stage and prior to more than 75% of the lots being sold and closed.
2. **Building Type.** No building shall be erected, altered, placed, or permitted to remain on any parcel other than a single family residential dwelling that conforms to the Architectural Review Committee standards.
3. **Setbacks Lines.** All parcels shall be subject to the front setback line and all other setback lines as shown or noted on the final subdivision plat as recorded in the office for Greenville County, South Carolina. It will be the sole responsibility of the purchaser/dealer as to the proper placement of said home on parcel and ordering of any surveys.
4. **Other Setback Lines.** Unless otherwise noted all side and rear lot lines shall be deemed to have ten (10) foot or Ten (10%) per cent setback lines, whichever is greater.
5. **Required Plans.** Two sets of plans for the proposed parcel improvements must be submitted to the Architectural Review Committee. One set of plans will become the property of the Architectural Review Committee. The other set will be reviewed before any implementation

of the improvements shall begin. This set will be returned to the owner as evidence of approval noted therein.

6. Walls, Fences, Etc. No wall fence, or hedge shall be erected on any parcel unless approved by the Architectural Review Committee.
7. Utility Easements and Installation. The right is reserved to place or authorize the placing of sewer, gas, and water pipe lines and telephone, electric power and television cable on or under the road and street right-of-ways on said plat without compensation or consent of any parcel owner. Easements for utility installation are hereby expressly reserved over and across the side and rear five (5) feet of all parcels.
8. Utility Connections. Building connections for all utilities including but not limited to water, electricity, telephone, and television shall be run underground and located near the rear in a non-conspicuous manner.
9. Antennae. No amateur radio and other antennae shall be erected on any parcel. Upon review of the Architectural Review Committee small satellite dishes may be permitted.
10. Outdoor Drying Apparatus. No Laundry or clothing shall be aired or dried outside.
11. Garbage and Trash Containers. All trash, garbage, and waste shall be kept in a sanitary containers and except during pick-up kept out of view from the streets.
12. Fuel tanks. Propane gas tanks or containers shall be place on a parcel only after approval by the Architectural Review Committee. No oil tanks shall be permitted.
13. Landscaping. Parcels owners shall preserve and protect the existing landscaping and shall in no way interrupt the drainage design into the lots or the street road system. All landscaping must be completed within 30 days after the home is in place. Landscaping shall include but not be limited to a grass-seeded yard and at least twelve (12) shrubs or plantings that are not less than one gallon size.
14. Mailboxes. Location, design, and materials shall be established and approved by the Architectural Review Committee and assessed to the homeowner at time of lot closing.
15. Construction delays. The placement/construction of any residence or structure, once commenced, must be fully completed within ninety (90) days thereof unless rendered impossible as a direct result of strikes, fires, natural emergencies or natural calamities.



**ARTICLE VII - STANDARDS FOR MAINTENANCE OF IMPROVEMENTS.**

Owners of property subject to these Covenants shall keep their property in a clean, attractive and serviceable appearance substantially similar to its original condition. Such maintenance includes, but is not limited to the following:

- 1) Repainting, re-staining or renovating on a periodic basis as needed, exterior surfaces that are significantly different in appearance from the appearance approved by the Architectural Review Committee.
- 2) Replacement of missing elements or repair of exterior damage or deterioration including but not limited to: siding, trim, fascia, roofing, doors, shutters, gutters, down spouts, flues, windows, screens, fences, walls, decks, sheds, recreational structures, or exterior lights fixtures and,
- 3) The removal and manner of removal of any architectural element which was previously approved by the Architectural Review Committee shall also require approval by the Architectural Review Committee before removal.
- 4) Routine lawn and yard care including grass cutting, leaf raking, shrubbery trimming and fertilizing so that the property's appearance will not become detrimental to the use and enjoyment of neighboring property. Each lot must be mowed and maintained regularly, including the area from the lot line to the edge of the paved street and including the slopes of ditches or streams. Should the purchaser breach this condition, the developer or his assign reserves the right to enter the said lot and mow the grass, remove unsightly structures and objects; with the cost of such work becoming a lien upon the said lot and the purchaser of said lot shall be liable for payment of said cost to the developer.

**ARTICLE VIII - AMENDMENTS AND MODIFICATIONS**

1. **Reservation.** Owner reserves the right to amend these covenants and restrictions. The reservation will terminate upon the sale by Developer of 75% of the lots subject to these covenants.
2. **Waiver of Violation.** The Architectural Review Committee shall have the right to waive any violation of these covenants or waive the enforcement of any covenant if said Committee, in its sole discretion, deems that the waiver is necessary for a given lot or does not materially affect these covenants.
3. **Additional Covenants.** No Owner of any numbered lot may impose additional covenants or restrictions on any part of the real property.

In witness whereof the undersigned has placed its hand and seal this 15th day of November, 1999.

PREFERRED CAPITAL II, LLC.

Alycia B. Dornell  
Witness:

Jon Schweyer  
By Its: General Partner

May G. Long  
Witness:

\_\_\_\_\_  
By Its: General Partner

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

PROBATE

Personally appeared before me the undersigned witness and made oath that (s)he saw the within named party sign, seal and, as its act and deed, deliver the within written instrument and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

Alycia B. Dornell

Sworn to before me this 6<sup>th</sup>  
day of January, 1999

FILED FOR RECORD IN GREENVILLE  
COUNTY SC R.O.D. OFFICE AT 12:00 PM  
01 06 00 RECORDED IN DEED  
BOOK 1890 PAGE 0223 THRU 0232  
DOC # 2000001333

May G. Long  
Notary Public for South Carolina  
My Commission Expires: 12-17-06

Judy A. Hix