Prepared by: Kenneth Kirkman, Esquire BK7223 PG0207

Hold For Cox and Cox. LLP

REGISTER

STATE OF NORTH CAROLINA

COUNTY OF WAKE 000503

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DECLARATION OF COVENANTS AND RESTRICTIONS
WALDEN TOWNES

WAKE COUNTY

THIS DECLARATION, dated for purposes of reference only this 11th day of November, 1996, by WALDEN TOWNES, INC. a North Carolina Corporation, hereinafter called "Developer."

W I T N E S S E T H:

WHEREAS, Developer procured from Apex Properties, LLC, a tract of land within the Walden Creek development, which tract of land is more fully described on Exhibit A attached hereto ("Acquired Property"); and

WHEREAS, the Acquired Property was a portion of property which Developer has optioned from Apex Properties, LLC which property is more fully described on Exhibit B attached hereto ("Option Property"); and

WHEREAS, at the time of such acquisition, Developer was assigned by Apex Properties, LLC a portion of the development rights of Apex Properties, LLC, as reserved to Apex Properties, LLC under the Declaration of Covenants, Conditions and Restrictions for Walden Creek recorded in Book 6769, Page 0677 et seq., Wake County Registry ("Master Declaration"); and

WHEREAS the Acquired Property is subject to the Master Declaration; and

WHEREAS Developer deems it desirable for the efficient preservation of the values and improvements constructed or to be constructed within the Acquired Property to create an agency to which should be delegated and assigned the powers of providing maintenance to the improvements located thereon, and appropriate administration thereof, including the collection and disbursement of assessments and charges hereinafter created and created by the Master Declaration; and

WHEREAS Article V of the Master Declaration provides that Additional Covenants, as defined therein, may be created to further encumber property subject to the Master Declaration, which rights are herein being exercised by Developer, successor in interest to the development rights reserved to Apex Properties, LLC under the Master Declaration; and

WHEREAS Developer has incorporated under the laws of the State of North Carolina a non-profit corporation named Walden Townes Homeowner's Association, Inc. (the "Association"), for the purpose of exercising the functions aforesaid and hereinafter more fully described;

NOW, THEREFORE, Developer declares that the real property described on Exhibit A, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "Covenants and Restrictions") hereinafter set forth.

ARTICLE I

Definitions

Section 1. The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

(a) "Association" shall mean and refer to Walden Townes Homeowner's Association, Inc.

(b) "Common Properties" shall mean and refer to those areas of land now or hereafter shown on any recorded subdivision plat of the Properties or hereafter deeded to the Association and intended to be devoted to the common use and enjoyment of the Owners of the Properties, including improvements and recreational amenities constructed thereon.

(c) "Living Unit" shall mean and refer to any portion of a building situated upon the Properties designed and intended for use and occupancy as a residence by a single family, whether as Owners or tenants.

(d) "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of Common Properties as heretofore defined.

(e) "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article III, Section 1, hereof.

(f) "Mortgagee" shall include the noteholder or cestui que trust secured by a deed of trust.

(g) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Living Unit situated upon the Properties but, notwithstanding any applicable theory of the deed of trust, shall not mean or refer to the Trustee or cestui que trust unless and until there has been a transfer of title pursuant to foreclosure or any proceeding in lieu of foreclosure.

(h) "Properties" shall mean and refer to the real property described in Exhibit A made subject hereto.

ARTICLE II

Property Subject To This Declaration; Additions Thereto

Section 1. Properties. The real property which is, and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration, is that property more particularly described on Exhibit A attached hereto. It is expressly acknowledged that Living Units may be constructed within Lots on that property shown on the Plat in different sequences, and from time to time. Declarant reserves all rights, easements and privileges as may be necessary to allow access upon or across any road right-of-way or any Common Property as may be necessary to facilitate the construction of Living Units, and any necessary or appurtenant site work, to allow such construction to continue, which construction shall be allowed for as long as Developer has the right to expansion as set out in Article II, Section 2 of this Declaration.

Section 2. Additions to Existing Property.

(a) Expansion. Additional lands may become subject to this Declaration to the extent such lands are described on Exhibit B attached hereto. The additions authorized hereunder may be made in one or more phases. Said additions shall be made by filing of record a Supplemental Declaration of Covenants and Restrictions with respect to the additional property desired to be annexed, which Supplemental Declaration shall extend the scheme of these covenants and restrictions to such property by adopting these Covenants and Restrictions by reference. Such Supplemental Declaration may contain such complementary additions and modifications of the Covenants and Restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the scheme of this Declaration. In no event, however, shall such Supplemental Declaration revoke, modify or add to the covenants established by this Declaration as to Lots as described in the plat of the property shown on Exhibit A attached hereto. Said plat is recorded in Book of Maps 1996, Page 950, Wake County Registry (the "Plat"). Any annexation made hereunder must be completed on or before December 31, 2005. Any such amendment shall specify the date upon which dues and assessments are payable for Lots annexed thereby.

(b) Mergers. Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Property together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration within the Property except as hereinafter provided.

ARTICLE III

Membership and Voting Rights in the Association

Section 1. Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot or Living Unit or undeveloped and undesignated land which is subject by covenants of record to assessment by the Association shall be a Member of the Association, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a Member.

Section 2. Voting Rights. The Association shall have two classes of voting membership.

Class A. Class A Members shall be all those Owners as defined in Section 1 with the exception of the Developer. Class A Members shall be entitled to one vote for each Lot or Living Unit in which they hold the interests required for membership by Section 1. When more than one person holds such interest or interests in any Lot or Living Unit all such persons shall be members, and the vote for such Lot or Living Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot or Living Unit.

Class B. The Class B Member shall be the Developer. The Class B Member shall be entitled to three (3) votes for each Lot or Living Unit in which it holds interests required for membership. The Class B membership shall cease and become converted to Class A membership at the earlier occurrence of the following events:

(a) when the total number of Class A Members equals or exceeds seventy-five (75) percent of the total number of Allowed Lots, as set out on Exhibit C attached hereto; or

(b) January 1, 2000.

From and after the happening of the earlier to occur of these events, the Class B Member shall be deemed to be a Class A Member entitled to one vote for each Lot or Living Unit in which it holds the interests required for membership under Section 1.

ARTICLE IV

Property Rights in the Common Properties

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 3 of this Article IV, every Member shall have a right and easement of enjoyment in and to the Common Properties, including rights of access, ingress and egress to and from public streets and walkways and the right to park a motor vehicle in areas specifically designated for such purposes; such easement shall be appurtenant to and shall pass with the title to every Lot or Living Unit. In addition, every Class A Member shall have the right and privilege of using the designated parking spaces for the benefit of his or her Living Unit.

Section 2. Title to Common Properties. The Developer must relinquish the legal title to the Common Properties to the Association prior to the transfer of any Lot or Living Unit included within the Properties. Notwithstanding this fact, Developer reserves the right, until such time as Developer's right to record Supplemental Declarations expires, to go upon the Common Properties for the purpose of constructing common use amenities thereon. Furthermore, Developer reserves for the benefit of Developer, and for the benefit of the Association and the owners of all Lots, the right to utilize all drainageways, retention ponds and similar common facilities and utilities for the benefit of all of the property described on Exhibit B, and other adjacent properties subject to the Master Declaration.

Section 3. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) the right of the Association, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage said properties. In the event of a default upon any such mortgage the lender's rights thereunder shall be limited to a right, after taking possession of such properties, to charge admission and other fees as a condition to continued enjoyment by the members and, if necessary, to open the enjoyment of such properties to a wider public until the mortgage debt is satisfied, whereupon the possession of such properties shall be returned to the Association and all rights of the Members hereunder shall be fully restored;

(b) the right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosure;

(c) the right of the Association, as provided in its Articles of Incorporation and By-Laws, to suspend the voting rights of any Member for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations;

(d) the legal right of an Owner of property shown on the same plat to include portions of the Common Properties as may be necessary for said Owner to qualify under governmental requirements such as setback lines, open space, parking or other aspects which may be needed for issuance of a building permit to be secured to rebuild a damaged Living Unit; and

(e) the right of the Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority, or entity, or to Walden Creek Homeowner's Association, Inc., for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer, determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by Members entitled to cast not less than two-thirds (2/3) of the votes of each class of membership has been recorded, agreeing to such dedication, transfer, purposes or condition, and unless written notice of the proposed agreement and action thereunder is sent to every Member at least thirty (30) days in advance of any action taken.

<u>Section 4</u>. <u>Use of Recreational Facilities</u>. To the extent that recreational facilities, as more fully described hereinbefore, are constructed upon Common Properties, either by the Developer or by the Association, the owners of all Lots shall have the right of utilization of such recreational facilities, and all costs associated therewith, for upkeep, maintenance and repair, shall be the obligation of the Association, and assessments may be collected therefore as set out in Article V hereinafter. Neither the Developer nor the Association is obligated to construct such recreational amenities, nor are there any current plans to so construct such amenities.

ARTICLE V

Covenant for Assessments

<u>Section 1</u>. <u>Creation of the Lien and Personal Obligations of Assessments</u>. Except as hereinafter specifically provided, each Owner of any Lot or Living Unit, by the acceptance of title thereto, shall be deemed to covenant and agree to pay to the Association assessments as outlined in this Declaration of Covenants and Restrictions. The assessments may be classified as (A) Regular for (1) operation, maintenance, repair, replacement and improvement of Common Properties, (2) maintenance and repair of the premises of an Owner and (3) other purposes, and (B) Special for

(1) capital improvements to Common Properties and (2) maintenance, repair or improvements of the premises of an Owner. These assessments are to be fixed, established and collected from time to time as hereinafter provided.

The Regular and Special assessments, together with such interest thereon and cost of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made.

Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessment. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of the Members and in particular for the improvement and maintenance (1) of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties and (2) of the Lots and Living Units situated upon the Acquired Property. Without limitation, such uses shall include satisfaction of the Association's obligations regarding the Common Properties to pay hazard and liability insurance, ad valorem taxes, the payment of governmental assessments for public and private capital improvements made to or for the benefit thereof, the repair, replacements and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof.

Section 3. Amount of Assessment.

(a) Initial Assessment. To and including December 31, 1996, the initial annual assessment shall not be in excess of Nine Hundred Dollars ($900.00) per Lot, the exact amount of which shall be determined from time to time as provided in subsection (d) of this Section 3.

(b) Increase by Association. From and after December 31, 1996, the annual assessment effective for any year may be increased from and after January 1 of the succeeding year by the Board of Directors, without a vote of the membership, by a percentage which may not exceed the greater of ten percent (10%) or the percentage increase reflected in the U.S. City Average, Consumer Price Index - United States and selected areas for urban wage earners and clerical workers, all items most recent index and percentage changes from selected dates (published by the U. S. Bureau of Labor Statistics, Washington, DC), or such other Index as may succeed the Consumer Price Index, for the twelve-month period ending the immediately preceding October 1.

(c) Increase by Members. From and after December 31, 1996, the Regular assessment may be increased by a percentage greater than permitted by this Article by an affirmative vote of two-thirds (2/3) of each class of Members who are voting in person or by proxy, at a meeting duly called for such purpose, written notice of which, setting for the purpose of the meeting, shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. The limitations herein set forth shall not apply to any increase in assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

(d) Criteria for Establishing Annual Assessment. The initial Regular assessment shall not exceed Nine Hundred Dollars ($900.00). In establishing the Regular assessment for any subsequent assessment year, the Board of Directors shall consider all current costs and expenses of the Association, any accrued debts, and reserves for future needs.

(e) Working Capital Fund. Each Owner, excepting the Declarant and those persons or entities in the house building business, shall pay the sum equal to two months (2) Association dues into a working capital fund of the Association at the time of transfer of said Lot to said Owner.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized by this document, the Association may levy, in an assessment year, a Special assessment applicable to that year only for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Properties including fixtures and personal property related thereto, provided that any such assessment shall have the assent of not less than two-thirds (2/3) of the votes of each class of Members who are voting in person or proxy at a meeting duly called for this purpose.

Section 5. Uniform Rate of Assessment. Both Regular and Special assessments must be fixed at a uniform rate for all Lots, on a per Lot basis, and may be collected on either a monthly, quarterly, semi-annual or annual basis.

Section 6. Quorum for any Action Authorized Under Sections 3 and 4. The quorum required for any action authorized by Sections 3 and 4 of this Article V shall be as follows:

At the first meeting called, as provided in Sections 3, and 4 of this Article V, the presence at the meeting of Members, or of proxies, entitled to cast forty percent (40%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirements set forth in

Sections 3 and 4, and the required quorum at any such subsequent meeting shall be two-thirds of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

<u>Section 7</u>. <u>Date of Commencement of Assessments; Due Dates</u>. The Regular assessments provided for herein shall commence as to all Lots on the date of transfer of a Lot from Developer to a third party. The first Regular assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the Regular assessment against each Lot at least thirty (30) days in advance of each Regular assessment period. Written notice of the Regular assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

<u>Section 8</u>. <u>Duties of the Board of Directors</u>. The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot or Living Unit for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

Written notice of the assessment shall thereupon be sent to every Owner subject thereto; failure to provide a written notice shall indicate that the assessment is unchanged from the previous assessment.

The Association shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

<u>Section 9</u>. <u>Effect of Nonpayment of Assessment; Personal Obligation of the Owner; Liens; Remedies of Association</u>. If the assessments are not paid on the date when due (being the dates specified in Section 7 of this Article V), then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligations of

the then Owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date or a written arrangement for payment consented to by the Association, the assessment shall bear interest from the date of delinquency at the rate of ten percent (10%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same and/or to foreclose the lien against the property, and there shall be added to the amount of such assessment a charge to be determined by the Association of at least One Hundred Fifty Dollars ($150.00) for the cost of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee of at least Fifty Dollars ($50.00) to be fixed by the court together with the costs of the action.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first deed of trust now or hereafter placed upon the properties subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, a deed of foreclosure under power of sale or any other transfer in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments which thereafter become due, nor from the lien of any such subsequent assessment.

Section 11. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) all Common Properties as defined in Article I, Section 1, hereof; (c) and all Lots upon which there has been no Living Unit completed, with a certificate of occupancy issued therefore.

Section 12. Walden Creek Homeowner's Association, Inc. The Owner of each Lot and Living Unit shall be a member of the Walden Creek Homeowner's Association, Inc., as required by the terms, provisions and conditions contained within the Master Declaration. As members therein, the Owner of each Lot and Living Unit shall be required to pay assessments to said association, in addition to assessments payable to the Association as set out herein. The Board of Directors of the Association shall have authority, but shall not be required, to enter into an agreement with the Walden Creek Homeowner's Association, Inc. whereby dues and assessments payable to the Walden Creek Homeowner's Association, Inc. shall be collected by the Association, and remitted to the Walden Creek Homeowner's Association, Inc.

ARTICLE VI

Rights of First Mortgagees

Section 1. Inspection of Books and Records. First Mortgagees shall have the right, upon request and during normal business hours, to examine the books and records of the Association.

Section 2. Notice of Default. Upon its written request, the holder of a first mortgage upon a Lot or Living Unit shall be entitled to written notification of any default by the Owner of said Lot or Living Unit in the performance of his obligations pursuant to these Covenants or the By-Laws of the Association, if such default is not cured within thirty (30) days.

Section 3. Payments by First Mortgagees. One or more first Mortgagees of Lots or Living Units may, jointly or singly, in respect to the Common Properties, pay taxes or other charges which are in default and have or may become a charge against same, pay overdue hazard insurance premiums or secure new hazard insurance coverage after policy lapse. The parties making such expenditures shall be entitled to immediate reimbursement from the Association.

Section 4. Prohibitions. Without having first received written approval from at least seventy-five percent (75%) of the first Mortgagees (based upon one vote for each Mortgagee) of the Lots or Living Units, the Association may not:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the real property which is owned, directly or indirectly, by the Association; provided, however, that the granting of easements for public utilities or for other public purposes consistent with the intended use of such property by the Association shall not be deemed a transfer within the meaning of this clause;

(b) change the method of determining obligations, assessments, dues or other charges which may be levied against the Owner of a Lot or Living Unit;

(c) by act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Living Units, the exterior maintenance of Living Units, the maintenance of party walls or common fences and driveways, or the upkeep of lawns and plantings in the Properties;

(d) fail to maintain hazard insurance on insurable improvements upon the Common Property in an amount equal to one hundred percent (100%) of the current insurable replacement cost; or

(e) use hazard insurance proceeds from losses to any Common Properties for other than the repair, replacement or reconstruction of such improvements.

ARTICLE VII

Party Walls

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Living Units upon the Acquired Property and placed on the dividing line between the Lots shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall must restore it as a party wall unless the other Owner agrees to the contrary in advance, and the other Owners thereafter making use of the wall shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, the Board of Directors of the Walden Creek Homeowner's Association, Inc. shall arbitrate and resolve any such disagreement, and the decision of that group shall be final and conclusive of the question involved.

ARTICLE VIII

Aesthetics Committee

Section 1. Review by Committee. No building, fence, wall or other structure nor any planting or landscaping change (including removal of any tree) shall be commenced, erected or maintained upon the Acquired Property by other than the Developer nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an aesthetics committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within forty-five (45) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been complied with fully. The Association shall have the right to bring an action to enjoin any activity taken in violation of this Article.

Section 2. Delegation of Rights. The rights reserved under Section 1 of this Article VIII may be assigned by either the Developer, as to rights reserved to the Developer, or by the Association, as to rights reserved to the Association or to a committee appointed by the Association, to the Walden Creek Homeowner's Association, Inc., or a committee appointed by the Walden Creek Homeowner's Association, Inc. Any such assignment must be by written instrument which shall specify the particular rights being so assigned.

ARTICLE IX

Exterior Maintenance

Section 1. Exterior Maintenance. In addition to maintenance upon the Common Properties, the Association shall provide exterior maintenance upon each Lot and Living Unit which is subject to assessment under Article V hereof as follows: paint, repair, replace and care for roofs, gutters, down-spouts, exterior building surfaces (other than windows, sky lights, screens and glass doors), trees, shrubs, grass, walks and other exterior improvements. All other portions of any Living Units, including, but not limited to, windows, screens, glass doors, heating and air conditioning components, and utility components shall be maintained in good condition by the Owner of each Living Unit. Failure of any Owner to maintain that which said Owner is required to maintain in good condition shall allow to the Association, following written notice to such Owner specifying the work required to be accomplished, the right to cause such work to be completed, with the cost thereof, plus a 15% management fee, charged to Owner as a Special assessment.

Section 2. Special Assessments for Capital Improvements. In addition to the Regular assessments authorized by this document, the Association may levy, in an assessment year, a Secial assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement for exterior maintenance of any Lot or Living Unit, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 3. Access at Reasonable Hours. For the purpose solely of performing the exterior maintenance required by this Article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot or exterior of any Living Unit at reasonable hours on any day.

ARTICLE X

Common Amenities

The Association may impose uniform standards for mail collection facilities (which may be a central facility or individual receptacles), waste disposal containers, newspaper boxes, mailboxes and such other common features typically installed on the exterior of a Living Unit, or on Common Properties. The owner of each Lot shall comply fully with all such standards adopted by the Association.

ARTICLE XI

General Provisions

Section 1. Zoning. No Lot or Living Unit shall be used for any purpose which is not permissible under applicable governmental residential zoning regulations.

Section 2. Prohibited Activities. No noxious or offensive trade or activity shall be carried on upon or in any Lot or Living Unit, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

Section 3. Mobile Homes, etc. No trailer, mobile home, motor home, watercraft, basement, tent, shack, garage, truck (other than small pick up truck) shall at any time be used for human habitation temporarily or permanently, nor shall any structure of a temporary character be used for human habitation.

Section 4. Rules. The Board of Directors shall have the authority to adopt rules for the use of the Common Properties and shall furnish a written copy of said rules to the Owners. Any violation of such rules shall be punishable by fine and/or suspension of the voting rights of the violating Owners. The Board of Directors shall also have the power to adopt rules and regulations which prohibit or limit the types of animals or household pets which may be kept in or about the Lots or Living Units and which govern their allowance upon the Common Properties.

Section 5. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns.

Section 6. Amendment. These covenants and restrictions may be amended during the first twenty (20) year period by the vote of not less than ninety percent (90%) of each class of Members cast in person or by proxy at a meeting duly called for this purpose, written notice of which including the subject matter of the proposed amendment, shall be sent to all Members at least thirty (30) days in advance. Thereafter, these covenants and restrictions may be amended by the vote of at least seventy-five percent (75%) of each class of Members cast in person or by proxy at a meeting duly called for this purpose, written notice of which including the subject matter of the proposed amendment, shall be sent to all Members at least thirty (30) days in advance. Matters mentioned elsewhere in these covenants requiring the approval of first mortgages or requiring a greater percentage of Members for approval shall be so governed. Any such amendment shall become operative and binding upon all Members and their Lots when set forth in an amended Declaration of Covenants and Restrictions and recorded in the office of the Register of Deeds of Wake County, North Carolina.

Section 7. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, or otherwise delivered, to the last known address of the person who appears as a Member or Owner on the records of the Association at the time of such mailing.

Section 8. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 9. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which provisions shall remain in full force and effect.

Section 10. Roads and Streets. Developer reserves a right of ingress and egress over and across all roads and streets for purposes of accessing any property described on Exhibit A, Exhibit B or adjoining properties subject to the Master Declaration owned by Developer or its successors and assigns.

Section 11. Parking. Off street parking, owned by the Association, shall be available for short term utilization of Owners and their guests, subject to reasonable rules and regulations concerning utilization as established by the Association from time to time.

Section 12. Insurance. The Association shall maintain as an expense of the Association standard form hazard insurance policies insuring for the benefit of the Association and the owner of each Lot and each Living Unit the full, insurable replacement costs for all improvements on Common Properties and on each Lot, subject to a reasonable deductible determined from time to time by the Association. The Association may maintain for the benefit of the Owner of each Lot individual insurance policies for each Living Unit, or may purchase "group" or "blanket" policies for all or any groupings of Living Units. The Association shall act as insurance trustee for the benefit of the Owner of each and every Lot, and the holder of each mortgage thereon, and, upon payment of any claim, the Association may, at its sole discretion, deliver the proceeds therefrom to the Owner of a Living Unit damaged, or may maintain such funds with disbursement agreements as may be deemed prudent by it to insure the reconstruction of improvements damaged or destroyed. Flood insurance need not be maintained by the Association, but may be maintained if elected by the Association. If not maintained by the Association, the Owner of each Lot may maintain such insurance at his sole discretion and cost.

Section 13. Fences. Notwithstanding the restrictions contained in Article VIII, Section 1, approval shall be granted by the Association, or its designated aesthetics committee, as to any fence constructed in substantially identical location and of substantially identical materials as that fence constructed by Developer in the model unit (Lot 1).

Section 14. Satellite Dishes. No satellite receiving dish shall be allowed exterior to any Living Unit, no matter the size thereof.

Section 15. Amplification. The provisions of this Declaration are amplified by the Articles of Incorporation and By-Laws of the Association; but no such amplification shall alter or amend any of the rights or obligations of the Owners set forth in this Declaration. Declarant intends that the provisions of this Declaration on the one hand, and the Articles of Incorporation and By-Laws of the Association on the other hand, be interpreted, construed, and applied to avoid inconsistencies or conflicting results. If such conflict necessarily results, however, Declarant intends that the provisions of this Declaration control anything contained in such documents. In the case of a conflict between the Articles of Incorporation and By-Laws for the Association, the Articles of Incorporation shall control.

IN WITNESS WHEREOF, Walden Townes, Inc. has caused this instrument to be duly executed as of the day and year first above written.

WALDEN TOWNES, INC.

By: ______________________
President

ATTEST:

Marsha K Conant
Secretary

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, Cathy L. Ballard, a Notary Public of the aforesaid State and County, do hereby certify that Marsha R. Cowart personally came before me this day and acknowledged that he/she is ___ Secretary of Walden Townes, Inc. a North Carolina Corporation, and that by authority duly given and as an act of the corporation, the foregoing instrument was signed in its name by its ___ President, sealed with its corporate seal and attested by its ___ Secretary.

Witness my hand and official stamp or seal, this 11th day of November, 1996.

Cathy L. Ballard
Notary Public

CATHY L. BALLARD NOTARY PUBLIC CARTERET COUNTY

My Commission Expires:
10-18-2001

NORTH CAROLINA — WAKE COUNTY
The foregoing certificate ___ of Cathy L. Ballard

Notar(y)(ies) Public 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

By P. Anne Redd
Asst/Deputy Register of Deeds

EXHIBIT A

Being all of that property shown on that plat recorded in Book of Maps 1996, Page 950, Wake County Registry, excepting that property within the rights-of-way of Shepards Glade Drive and Poets Glade Drive, as shown on said plat.

EXHIBIT B

BEGINNING at a control corner located in the southern right-of-way line of Walden Creek Drive, a 60 foot right-of-way, said corner having North Carolina grid coordinates N=729,078.594 and E=2,035,616.290, said point marking the northwest corner of Walden Creek, Section III as shown on that survey to which reference is hereinafter made; runs thence along the western line of the Walden Creek, Section III property South 37° 50' 27" East 281.97 feet to an iron pin set, and South 87° 19' 00" East 117.94 feet to an iron pin set; runs thence leaving the western line of the Walden Creek, Section III property and continuing along a new line of Walden Creek, Section IV South 39° 06' 02" West 282.34 feet to an iron pin set, and South 02° 28' 20" West 46.55 feet to a point; runs thence along a new line North 37° 16' 37" West 410.08 feet to a point located in the southern right-of-way line of Walden Creek Drive; runs thence along the southern right-of-way line of Walden Creek Drive North 32° 19' 08" East 34.00 feet to a point, and along a curve to the right having a radius of 620.00 feet and an arc distance of 183.79 feet to the point and place of BEGINNING, containing approximately 2.03 acres, and being a portion of that certain 8.030-acre tract of land shown on that survey entitled "Walden Creek, Section IV, Phase I", dated December 06, 1995 and prepared by Taylor Wiseman & Taylor, Engineers-Surveyors-Planners.

mme\r\dw\Walden BDM