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LAURA M RIDDICK
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AMENDED AND RESTATED
MASTER
DECLARATION
FOR
VILLAGES OF APEX

**(Prepared By and Return to: Mark W. Ishman, Esq. of Ishman Law Firm, P.C.,
9660 Falls of Neuse Road, Suite 138-350, Raleigh, NC 27615)**

**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

**MASTER DECLARATION FOR
VILLAGES OF APEX**

THIS AMENDED AND RESTATED MASTER DECLARATION FOR VILLAGES OF APEX, is made on the date hereinafter set forth by Apex First Development, LLC, a North Carolina limited liability company and North Carolina II L.P., a Maryland limited partnership (hereinafter each referred to as the **"Declarant"**, and collectively as the **"Declarant"**); and Oak City Homes, LLC, a North Carolina limited liability company (hereinafter referred to as **"OCH"**); Cotton Custom Homes, Inc., a North Carolina corporation (hereinafter referred to as **"CCH"**); KS Bank Inc., a North Carolina corporation (hereinafter referred to as **"KSB"**); Jerry Smith Builders, Inc., a North Carolina corporation (hereinafter referred to as **"JSB"**); Tierone Bank, a federally insured savings bank organized under the laws of the USA (hereinafter referred to as **"TB"**); Branch Banking and Trust Company, a North Carolina banking corporation (hereinafter referred to as **"BB&T"**); Phelan Building & Development, Inc., a North Carolina corporation (hereinafter referred to as **"PBD"**); Ample Lending Group, LLC, a North Carolina limited liability company (hereinafter referred to as **"ALG"**); NHH, LLC, a North Carolina limited liability company (**"NHH"**); Ulmer Z. Bridges, III & Grace Bolles Bridges and Mark A. Bridges & Diane Bridges, two married couples who are citizens of Wake County, North Carolina (collectively, hereinafter referred to as **"Bridges"**); Reward Builders, Inc., a North Carolina corporation (hereinafter referred to as **"RB"**); Michael Beach and Winnie Beach, a married couple who are citizens of Wake County, North Carolina (hereinafter referred to as **"Beach"**); Christine Martin and Christopher Martin, a married couple who are citizens of Wake County, North Carolina (hereinafter referred to as **"Martin"**); Fred A. Page and Terry D. Page, a married couple who are citizens of Wake County, North Carolina (hereinafter referred to as **"Page"**); Stephanie Comito and Greg Comito, a married couple who are citizens of Wake County, North Carolina (hereinafter referred to as **"Comito"**); David T. Richman and Roberta J. Richman, a married couple who are citizens of Wake County, North Carolina (hereinafter referred to as **"Richman"**); Helen Brantley and Eric Brantley, a married couple who are citizens of Wake County, North Carolina (hereinafter referred to as **"Brantley"**); and David B. Gibson, a single person who is a citizen of Wake County, North Carolina (hereinafter referred to as **"Gibson"**); David W. Goodall, an unmarried person who is a citizen of Wake County, North Carolina (hereinafter referred to as **"Goodall"**); Martha B. Fay, an unmarried person who is a citizen of Wake County, North Carolina (hereinafter referred to as **"Fay"**); Thomas Grimes and Dorothy Grimes, a married couple who are citizens of Wake County, North Carolina (hereinafter referred to as **"Grimes"**); James Boren and Loida Boren, a married couple who are citizens of Wake County, North Carolina (hereinafter referred to as **"Boren"**); Helene Solimando, an unmarried person who is a citizen of Wake County, North Carolina (hereinafter referred to as **"Solimando"**); Ronald David Stein and Melaney Mydland Stein, a married couple who are citizens of Wake County, North Carolina (hereinafter referred to as **"Stein"**); Paul A. Martinez, Jr., an unmarried person who is a citizen of Wake County, North Carolina (hereinafter referred to as **"Martinez"**); and Barry L Fleming, an unmarried person who is a citizen of Wake County, North Carolina (hereinafter referred to as **"Fleming"**), Peter Caggia and Kathryn Caggia, a married couple who are citizens of Wake County North Carolina (hereinafter referred to as **"Caggia"**); John Urbanowicz and Kelly Urbanowicz, a married couple who are citizens of Wake County, North Carolina (hereinafter referred to as **"Urbanowicz"**); Peter Brady and Vicki Brady, a married couple who are citizens of Wake County, North Carolina (hereinafter referred to as

“Brady”); Carlos Cruz, an unmarried person who is a resident of Wake County, North Carolina (“Cruz”); and Sylvia J. Fuller, an unmarried person who is a resident of Wake County, North Carolina (“Fuller”):

W I T N E S S E T H:

WHEREAS, Declarant is the owner of real property located in the Town of Apex, Wake County, North Carolina, as described in Exhibit A attached hereto; and

WHEREAS, prior to the filing of this Declaration, Declarant, and certain Builders and Owners executed and caused to be recorded in Wake County, North Carolina Registry in Book 013276, Page 00400 the *original* Master Declaration for the Villages of Apex; and

WHEREAS, prior to the filing of this Declaration, OCH, CCH, KSB, JSB, TB, BB&T, PBD, ALG, NHH, HH, Bridges and RB each purchased or acquired certain lots as described in Section 3 and 4 of Exhibit A, and

WHEREAS, prior to the filing of this Declaration, Page, Comito, Brantley, Caggia and Boren each purchased a certain lot as described in Section 4 of Exhibit A from original but former Builder Cattano Construction, Inc., a North Carolina corporation (hereinafter referred to as “CC”); and

WHEREAS, prior to the filing of this Declaration, TB and BB&T acquired via contract certain lots as described in Section 4 of Exhibit A from original and former Builder CC; and

WHEREAS, prior to the filing of this Declaration, Richman, Urbanowiz and Martinez each purchased a certain lot as described in Section 4 of Exhibit A from Builder CCH; and

WHEREAS, prior to the filing of this Declaration, Gibson , Goodall, Stein and Fleming each purchased a certain lot as described in Section 4 of Exhibit A from Builder OCH; and

WHEREAS, prior to the filing of this Declaration, Fay purchased a certain lot as described in Section 4 of Exhibit A from Builder JSB; and

WHEREAS, prior to the filing of this Declaration, Grimes, Brady and Solimando each purchased a certain lot as described in Section 4 of Exhibit A from Builder PBD; and

WHEREAS, prior to the filing of this Declaration, Richman purchased a certain lot as described in Section 4 of Exhibit A from Builder CCH; and

WHEREAS, prior to the filing of this Declaration, Fuller and Cruz each purchased a certain lot as described in Section 4 of Exhibit A from Builder NHH; and

WHEREAS, prior to the filing of this Declaration, ALG acquired via contract certain lots as described in Section 4 of Exhibit A from original and former Builder KSHL; and

WHEREAS, prior to the filing of this Declaration, Bridges and RB each purchased/acquired certain lots as described in Section 4 of **Exhibit A** from original and former Builder Horizon Homes, LLC; and

WHEREAS, prior to the filing of this Declaration, KSB acquired via contract certain lots as described in Section 4 of **Exhibit A** from original and former Builder Edwards Contracting Group, Inc. (hereinafter referred to as “ECG”); and

WHEREAS, prior to the filing of this Declaration, Beach and Martin purchased certain lots as described in Section 4 of **Exhibit A** from KSB; and

WHEREAS, OCH, CCH, KSB, JSB, TB, BB&T, PBD, ALG, NHH, HH, Bridges, RB and Page, Comito, Richman, Brantley, Gibson, Goodall, Fay, Grimes, Boren, Solimando, Stein, Martinez, Flemming, Caggia, Urbanowiz, Brady, Beach, Martin, Fuller and Cruz have agreed to execute this Declaration for the purpose of subjecting those portions of the properties they own to the terms of this Declaration; and

WHEREAS, Declarant intends to develop such real property, together with any additional real property subjected (or annexed, those terms being used interchangeably herein) to the Declaration, all of such real property being referred to herein as the “**Properties**”, into a planned community to be known as Villages of Apex (herein sometimes referred to as “VILLAGES OF APEX” or the Community or the “**Subdivision**”), containing residential use, open space and recreational facilities, and other uses consistent with the zoning of the Properties; and

WHEREAS, Declarant desires to provide for the maintenance and upkeep of certain common area and greenways within the Community, to provide for enforcement of covenants and restrictions applicable to the Community and to provide a vehicle for ensuring that storm water drainage systems and facilities within the Community are properly maintained, and, to that end, desires to subject the property within the Community to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Properties and each owner thereof; and

WHEREAS, Declarant has deemed it advisable to create an organization to own, maintain and administer certain common area, to administer and enforce covenants and restrictions applicable to the Community, and to collect and disburse the assessments and charges hereinafter created, and Declarant has therefore incorporated under North Carolina law as a nonprofit corporation, the VILLAGES OF APEX, MASTER ASSOCIATION, INC., for the purpose of exercising the aforesaid functions; and

NOW, THEREFORE, Declarant, OCH, CCH, KSB, JSB, TB, PBD, ALG, BB&T, RB, Bridges and Page, Comito, Richman, Brantley, Gibson, Goodall, Fay, Grimes, Boren, Solimando, Stein, Martinez, Flemming, Caggia, Urbanowiz, Brady, Beach, Martin, Fuller and Cruz hereby declare that the real property described in **Exhibit A** attached hereto and made a part hereof and such additions thereto as may hereafter be made pursuant to Article II hereof, is and shall be owned, held, transferred, sold, conveyed, used and occupied subject to the

covenants, conditions, restrictions, easements, charges and liens set forth in the Declaration, which shall run with such real property and be binding on all parties owning any right, title or interest in said real property or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I
DEFINITIONS**

The following words and terms, when used in the Declaration or any amendment hereto, or any Supplemental Declaration, unless amended or unless the context clearly indicates otherwise, are defined as follows (when these and other defined words or terms herein have an initial capital letter or letters, their use in the Declaration has the defined meaning only when used with the same initial capital letter or letters,). Terms and words used herein without definition shall have the meanings, if any, specified therefor in the “Definitions” section of the Act or, if not defined in the Act, in the “Definitions” section of the Nonprofit Corporation Act, and, in the event of any conflict between the definitions contained herein and the definitions contained in the Act or the Nonprofit Corporation Act, the Act or Nonprofit Corporation Act, as appropriate, shall control:

- (a) “**Act**” is defined as Chapter 47F of the North Carolina General Statutes, known as the North Carolina Planned Community Act, as from time to time amended.
- (b) “**Articles**” is defined as the Articles of Incorporation of the Association, including all duly adopted amendments thereto.
- (c) “**Association**” is defined as the VILLAGES OF APEX, MASTER ASSOCIATION, INC., a North Carolina nonprofit corporation, its successors and assigns.
- (d) “**Board**” is defined as the Board of Directors of the Association, and is the “Executive board” as defined in the Act. The Board is responsible for the management and administration of the Association. Unless reserved by or for the Declarant in the Declaration, other Governing Documents or applicable Legal Requirements, all rights, powers, easements, functions, services, obligations and duties of the Association may be performed or directed by the Board on behalf of the Association.
- (e) “**Builder**” is defined as a Person, other than the Declarant, who regularly is in the business of constructing Dwellings for resale to other Persons, and who purchases or becomes the Owner of one or more Lots or Development Parcels within the Community for the purpose of constructing thereon one or more Dwellings for resale to other Persons. “Builders” shall mean and refer to all such persons or entities. Such Builders include but are not limited to OCH, CCH, JSB, CC, PBD and NHH.
- (f) “**Bylaws**” is defined as the Bylaws of the Association as they may now or hereafter exist, including all duly adopted amendments thereto.
- (g) “**Common Property**” and “**Common Area**” is defined as (i) all real property and Improvements thereon owned in fee by the Association for the common use, enjoyment or

benefit of the Members of the Association, and (ii) all rights and easements of the Association in, on, under and to any real property not owned in fee by the Association, together with all Improvements on such real property that are owned or maintained by the Association, each such easement or right also being referred to herein as a “Common Property Easement”. Common Property generally will be established either by a plat or map recorded in the Wake County Registry and identified on such plat or map as “Common Area”, “Common Property”, “Open Space”, “Private Open Space”, “Landscape Easement”, “Sign Easement”, “Street Island”, or some other similarly descriptive term, or by an instrument conveying real property or an easement or right therein to the Association (typically, an instrument granted to or reserved by or on behalf of the Association or by or on behalf of the Declarant for later transfer or assignment to the Association, for the use, enjoyment or benefit of the Members or the Properties). This definition of Common Property also includes Limited Common Property, which is a sub-classification of Common Property. All Common Property shall be maintained by the Association as provided herein.

Common Property also includes all other property and Improvements, if any, required to be included as such by the Town of Apex Unified Development Ordinance (the “UDO”), as the same may be amended from time to time.

Provided, however, all real property and private utility lines owned by, or under the jurisdiction of, a Sub-Association or Sub-Association Common Property as defined herein and are not the Common Property of the Association.

(h) “**Common Expenses**” is defined as: (i) expenses of maintenance of Common Property, including repair, restoration and replacement thereof; (ii) ad valorem taxes and public assessments, if any, levied against the Common Property or other assets of the Association (but specifically excluding ad valorem taxes on real property on, under or over which the Association has an easement or other similar right of use); (iii) premiums for hazard, liability and other insurance insuring the Common Property or Association, its officers, directors and employees, if any; (iv) fees and expenses of attorneys, accountants, and other persons and entities employed by the Association for Association business; (v) expenses declared to be or described as Common Expenses by the provisions of the Declaration; (vi) expenses determined by the Board of Directors of the Association or by the Members to be Common Expenses; and (vii) all other expenses incurred by the Association in performing its functions and providing services under the Governing Documents and Legal Requirements, including operating, management and administrative expenses.

(i) “**Condominium**” is defined as a portion of the Properties on which a condominium has been created pursuant to the North Carolina Condominium Act (Chapter 47C of the North Carolina General Statutes, as amended from time to time).

(j) “**Condominium Unit**” is defined as a physical portion of a Condominium designated for separate ownership or occupancy. See N.C.G.S. § 47C-1-103(25).

(k) “**Declarant**” is defined as Apex First Development, LLC, a North Carolina limited liability company and North Carolina II L.P., a Maryland limited partnership. The term “**Declarant**” also includes any Person to whom or which

Declarant assigns or delegates the rights and obligations of Declarant under the Declaration by an assignment of Declarant’s rights recorded in the Wake County Registry.

(l) **“Declarant Control Period”** is defined as the period of time between the date of recording of the Declaration and ending One (1) year after the last Lot is sold by the Declarant.

(m) **“Declarant Development Period”** is defined as the period of time between the date of recording of the Declaration and ending One (1) year after the last Lot is sold by the Declarant.

(n) **“Declaration”** is defined as this “Amended and Restated Master Declaration For VILLAGES OF APEX,” and including all duly adopted amendments hereto.

(o) **“Development Parcel”** is defined as any portion of the Properties that is owned by a Person other than the Declarant and is not a Lot or Exempt Property. The Owner of a Development Parcel, within fifteen (15) days after recording any plat of any portion of a Development Parcel that subdivides it into Lots or otherwise, shall provide a copy of such recorded plat (including plats related to the establishment of a Condominium) to the Association and, during the Declarant Control Period, to the Declarant. Typically, when a Development Parcel is improved without being subdivided into Lots on which detached or attached Dwellings are to be constructed, it will consist of a Condominiums are located.

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(p) **“Dwelling”** or **“Dwelling Unit”** is defined as any building or portion thereof within the Properties which is used or occupied, or intended for use or occupancy, as a residence by an individual or by one family unit, whether by the Owner thereof or by tenants or lessees of the Owner, and specifically shall include detached dwellings located on separate Lots, attached dwellings located on separate Lots (for example, townhomes, in which more than one Dwelling may be located in a single building, but each Dwelling is on a separate Lot under Legal Requirements) and Condominium Units. A detached dwelling, an attached dwelling, or Condominium Unit shall be deemed to constitute a Dwelling upon issuance of a certificate of occupancy therefor.

(q) **“Exempt Property”** is defined as all portions of the Properties included within any of the following categories:

- (1) Common Property;
- (2) Association and Sub-Association Common Property;
- (3) property owned by, or dedicated to and accepted by the Town or a utility, including property within the right-of-way of publicly-dedicated streets and roads; (4) property owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of North Carolina, unless it contains a Dwelling used as a residence.

Exempt Property shall not be subject to the assessments provided for herein, and the Owner of such Exempt Property shall have no voting rights in the Association based on ownership of such Exempt Property. Furthermore, unless and until such time, if any, as it loses its Exempt status, all Exempt Property owned by the Town or a utility provider, and all Exempt Property within publicly- dedicated street rights-of-way, shall be exempt from all of the provisions of the Declaration, except for any easements over such Exempt Property reserved in the Declaration by or for the Declarant, the Association, the Town or any other Person.

Exempt Property that loses its status as Exempt (e.g., property within a publicly-dedicated street right-of-way that has been closed as a public street, property formerly owned by the Town which has been conveyed to an Owner, Exempt Property conveyed by a tax-exempt charitable or nonprofit organization to a non-tax-exempt person or organization) shall be reclassified as a Lot, Development Parcel or Unsubdivided Land, as appropriate, and shall be subject to all of the terms and provisions of the Declaration in the same manner and to the same extent as other Lots, Development Parcels or Unsubdivided Land.

(r) **“Governing Documents”** is defined as the Declaration, the Articles of Incorporation, the Bylaws, and all applicable Supplemental Declarations and Subdivision Declarations.

(s) **“Improvement”** or **“improvement”** is defined as any improvement of or on any portion of the Properties, including Dwellings and other structures (specifically including exterior materials, colors, size, location and architectural style of same), decks, patios, driveways, motor vehicle parking areas, storage areas located outside of a Dwelling, recreational areas, equipment and facilities located outside of a Dwelling, mailboxes, exterior antennae, dishes and other apparatus to receive or transmit radio, television or microwave or other signals, fences, walls, landscaping, poles, flags and other outdoor decorative items, ponds, lakes, clearing, grading and other site preparation, swimming pools, exterior lights, signs located outside of a Dwelling, and all other exterior improvements. The definition of Improvements includes both initial Improvements and all subsequent alterations, changes and additions to same. **“Initial Improvements”** is defined as all of the Improvements constructed or placed on any Parcel of the Properties in accordance with Approved Plans at the time of issuance of a certificate of occupancy for the Dwellings or buildings thereon.

(t) **“include”** or **“including”** is defined as being inclusive of, but not limited to, the particular example(s) described, unless otherwise clearly obvious from the context.

(u) **“Legal Requirement”** is defined as any duly adopted and applicable law, ordinance, regulation or requirement of the United States of America, the State of North Carolina, the Town of Apex, North Carolina, the County of Wake, North Carolina, or any other governmental entity or quasi-governmental entity or agency having jurisdiction over the Properties, including any branch, department or division of any of the foregoing governmental and quasi-governmental entities.

(v) **“Limited Common Property”** and **“Limited Common Area”** are defined as Common Property that is established by the Declarant or the Association for the benefit of a particular phase, section, subdivision, Development Parcel or Lot within the Community and which has been designated as such by the Declarant or the Association. Limited Common Property is separate and distinct from Sub-Association Common Property. Examples of Limited Common Property include landscaped medians and alleys behind Dwellings in particular sections of the Community.

(w) **“Limited Common Expenses”** is defined as all expenses of the type included within the term Common Expenses, but that are related solely and specifically to Limited Common Property. Limited Common Expenses shall be paid by assessments against Members who own, or who own property within, the particular phase, section or subdivision, Development Parcel or Lot for or on which the associated Limited Common Property has been established.

(x) **“Lot”** is defined as any portion of the Properties with delineated boundary lines, as shown on a plat recorded in the Registry or as physically existing thereon (for example, a Condominium Unit), that is intended for construction of a Dwelling thereon, or on which a Dwelling has been constructed. With respect to a detached Dwelling or an attached Dwelling, a portion of the Properties typically becomes a Lot upon the recording of a plat. With respect to a Condominium Unit, it becomes a Lot when the Condominium plat and plans are recorded. With respect to a Condominium Unit, it becomes a Lot when it becomes a Dwelling as defined herein. Solely for the purpose of establishing an Owner of a Development Parcel or the Declarant, as the

Owner of Unsubdivided Land, as a Member of the Association with respect to such portions of the Property, this definition of Lot also includes a Development Parcel and Unsubdivided Land (under Section 47F-3-101 of the Act, “the membership of the Association shall at all times consist exclusively of the lot owners”); otherwise, Development Parcels and Unsubdivided Land constitute different forms of portions of the Properties under the Declaration. In the event that any Lot is increased or decreased in size by recombination or re-subdivision through the recording of a new plat, the newly platted lot thereafter shall constitute a Lot.

(y) “**maintain**”, “**maintaining**”, “**maintenance**” or any substantially similar term used in the Declaration, is defined to include any one or more of the following, as the context requires:

acquisition, purchase, construction, re-construction, installation, maintenance, upkeep, cleaning, renewal, alteration, repair, replacement, repainting, remodeling, restoration, removal, improvement, administration, operation, use, planting, mowing, cutting, trimming, pruning, fertilizing, watering and preservation.

(z) “**Plan Development Plan for PUD-CZ**” or “**PD Plan**” is defined as the most current version of the drawing approved by the Declarant that depicts the conceptual plan for development of the Properties. If there is any conflict between the Site Plan, PD Plan and a Subdivision Plan, the Subdivision Plan shall control.

(aa) “**Member**” is defined as each Person who or which holds membership in the Association.

(bb) “**mortgage**” or “**deed of trust**” (the terms being used interchangeably herein) is defined as any mortgage, deed of trust or other instrument that creates a security interest in real property, and includes all acts required to create such security interest.

(cc) “**Mortgagee**” means an institutional lender (including any of the following: commercial bank, savings bank, savings and loan association, trust company, credit union, industrial loan association, insurance company, pension fund or business trust, including real estate investment trust, any other lender regularly engaged in financing the purchase, construction or improvement of real estate, or any assignee of loans made by such lender, or any combination of any of the foregoing entities) which holds a first lien deed of trust encumbering a Lot. Only for the purposes of the notice and inspection rights contained in the Declaration in the portions hereof dealing specifically with Mortgagees, amendment of the Declaration and termination of the Declaration, the term “Mortgagee” also shall include the Federal Housing Administration (FHA), the Federal Home Loan Mortgage Corporation (FHLMC), the Federal National Mortgage Association (FNMA), the Department of Veterans Affairs (VA), the Government National Mortgage Association (GNMA) and any other public or private secondary mortgage market agency participating in purchasing, guaranteeing or insuring Mortgages which has notified the Board of such participation in writing (each of whom generically is referred to herein as a “**Secondary Mortgage Market Agency**”). Where the approval of Mortgagees is required, such approval consists of any one or more of the following:

(i) written approval; (ii) any written waiver of approval rights; (iii) a letter stating no objection; or (iv) presumptive approval if a Mortgagee does not respond to a notice from the Association requesting approval by notifying the Association, in the manner required herein for giving notices, within thirty (30) days after the Association gives notice to the Mortgagee of the request for approval.

(dd) **“Nonprofit Corporation Act”** is defined as the “North Carolina Nonprofit Corporation Act”, currently contained in Chapter 55A of the North Carolina General Statutes, and including all amendments, supplements and replacements thereof as enacted from time to time.

(ee) **“Owner”** is defined as the owner of record, whether one or more Persons, of fee simple title to any portion of the Properties, including contract sellers and owners of an equity of redemption, but excluding those having an interest as a result of a contract to purchase, option to purchase, or as security for the performance of an obligation. Such Owners include, but are not limited to, Page, Comito, Richman, Brantley, Gibson, Goodall, Fay, Grimes, Boren, Solimando, Stein, Martinez, Flemming, Caggia, Urbanowiz, Brady, Beach, Martin, Fuller and Cruz.

(ff) **“Parcel”**, as that term is used herein, includes and refers to a tract of Unsubdivided Land, a Development Parcel, or a Lot.

(gg) **“Person”** is defined to include any natural person, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture or other legal or commercial entity.

(hh) **“Plans”** is defined as the plans and specifications for a proposed Improvement showing (where applicable) the size, shape, dimensions, materials, exterior finishes and colors, location on the applicable portion of the Properties, driveway, parking areas, provisions for storm water drainage, decorative landscape planting and other decorative landscaping features, floor plans and elevations, and other items specified from time to time in any applicable architectural guidelines. “Approved Plans” are Plans that have been approved by the Architectural Review Committee (or by the Board, on appeal from the Architectural Review Committee).

(ii) **“Properties”** is defined as the real property described in **Exhibit A** to the Declaration and any additional property annexed pursuant to Article II of the Declaration.

(jj) **“Town”** is defined as the Town of Apex, North Carolina, the County of Wake, North Carolina, the State of North Carolina, the United States of America and all other governmental entities and quasi-governmental entities that have jurisdiction over the Properties, whichever governmental entity or entities is/are applicable.

(kk) **“Town of Apex Unified Development Ordinance”** is defined as the ordinances of the Town of Apex, North Carolina, that exist from time to time, and including but not limited to PUD-CZ and applicable rules and regulations adopted pursuant to such ordinances.

(ll) **“Recreational Amenities”** shall mean those portions of the Common Property on which a swimming pool, tennis courts, volleyball courts, tot lots, greenways, trails, parks and/or other recreational facilities, including associated parking and other improvements, have been constructed or placed for use by the Class A Members and their family members, tenants and guests as provided herein, and for use by Recreational Users as provided herein.

(mm) **“Recreational User”** is defined as each natural Person, other than a Class A Member (and such Class A Member’s family members, tenants and guest) who, subject to rules, regulations and fees adopted by the Board, has been granted the right to use the Recreational Amenities. A Recreational User shall have no voting rights in the Association, but a Recreational User shall be subject to all of the rules and regulations for use of the Recreational Amenities applicable to Owners, an affirmative duty and obligation to pay assessments for such use of the Recreational Amenities, as well as any additional rules and regulations adopted from time to time by the Association.

(nn) **“Registry”** is defined as the office of the Register of Deeds for Wake County, North Carolina, or any successor office in which deeds, plats, easements, mortgages and deeds of trust are recorded.

(oo) **“Sub-Association”** is defined as an entity organized for the purpose of owning, managing and/or maintaining that Sub-Association’s Common Property (including, with regard to a condominium, its common elements) and including, without limitation, a property owners association in a townhome development or condominium. Assessments imposed upon the Members of the Association by the documents establishing or governing a Sub-Association or subjecting an applicable portion of the Properties thereto shall be in addition to, and not in lieu of, assessments imposed upon such Members by the Declaration.

(pp) **“Sub-Association Common Property”** and **“Sub-Association Common Area”** are defined as portions of the Properties owned or maintained by a Sub-Association for the use, enjoyment and/or benefits of its members. All private streets and open space owned by, or under the jurisdiction of, a Sub-Association are Sub-Association Common Property. **“Sub-Association Limited Common Property”** and **“Sub-Association Limited Common Area”** are defined as Sub-Association Common Property that is established for the benefit of a particular phase, section, subdivision, or portion of that portion of the Properties subject to the jurisdiction of the Sub-Association.

(qq) **“Subdivision Plan”** is defined as the most current development plan approved by the Town for the applicable portion of the Properties, as evidenced by a plat recorded in the Registry.

(rr) **“Unsubdivided Land”** is defined as all portions of the Properties owned by the Declarant and which are not Lots or Exempt Property.

(ss) **“utility”** or **“public utility”** (the terms being used interchangeably herein) is defined as any one or more of the following used in any part or all of the Properties: electricity; telephone; Internet service; water; sanitary sewer; natural gas; television; and any other service or facility generally recognized as a public utility or determined to be a public utility by the

Developer (during the Declarant Control Period, and thereafter, by the Board); “utility provider” or “public utility provider” (the terms being used interchangeably herein) is defined as the Person who provides a utility to any part or all of the Properties.

(tt) “**utility apartment**” is defined as a portion of a Dwelling Unit that complies with all of the following requirements: (i) it physically is part of the Dwelling Unit or part of a garage attached to or detached from the Dwelling Unit; (ii) it is occupied by a Person or family unit other than the Person or family unit that occupies the Dwelling Unit of which it is a part; (iii) the utility apartment contains a floor area not in excess of 1/4 of the gross floor area of the Dwelling Unit, exclusive of the utility apartment (for example, if the Dwelling Unit contains 2,000 square feet, the utility apartment may contain a maximum of 500 square feet); and (iv) the utility apartment complies with all Legal Requirements.

ARTICLE II
THE PROPERTIES; ANNEXATION; WITHDRAWAL;
SUBDIVISION DECLARATION

Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed, used and occupied subject to the Declaration, and which is within the jurisdiction of the Association, is described on **Exhibit A** attached hereto, and constitutes the Properties at the time of the recording of the Declaration.

Section 2. Annexation of Additional Property.

(a) Annexation by the Declarant or other Party. If the Declarant desires to annex adjacent real property to the Declaration within Five (5) years after the end of the Declarant Control Period, or if a Person other than the Declarant desires to annex adjacent real property to the Declaration, such adjacent real property may be annexed by Declarant (and the owner of the property to be annexed if other than by Declarant), by the recording in the Registry of a Supplemental Declaration signed by Declarant and the owner of such real property. Additionally, adjacent property also may be annexed with a vote of at least Sixty Seven percent (67%) of the Members cast at a meeting duly called for such purpose. The supplemental declaration annexing such real property shall be by the owner thereof and the appropriate officers of the Association certifying the required meeting and vote, and by the Declarant during the Declarant Control Period.

(b) Conditions of Annexation. Any real property to be annexed to the Declaration must be contiguous (which term includes on the opposite side of a Street right of way) to some portion of the Properties already subject to the Declaration. All annexations of real property to the Declaration, if required by Legal Requirements, must be approved by the Town of Apex, the Federal Housing Administration and/or Veterans Administration. The number of Lots that may be added to the Properties as a result of any annexation by Declarant pursuant to the provisions of Section 2(a) above, as hereinafter defined, shall not exceed 100.

(c) Supplemental Declaration. Each Supplemental Declaration shall be effective to annex real property to the Declaration only upon obtaining all approvals required by the Declaration

and upon its recording in the Registry, and the effective date of such annexation shall be the later of the date specified therein, if any, or the date of recording. Each Supplemental Declaration shall describe the real property annexed and shall reference the Declaration. A Supplemental Declaration need not be in any specific form and need not be titled Supplemental Declaration (for example, it may be contained in a deed from the Declarant conveying the real property being annexed), but it shall clearly indicate the intention to subject such real property to the Declaration. Any Supplemental Declaration may specify such use restrictions and may contain such other terms, covenants, restrictions, easements, affirmative obligations, assessments, charges and liens, not inconsistent with the Declaration, as the Person annexing such real property to the Declaration may determine, which provisions may be more, but not less, restrictive than the provisions of the Declaration. Except for such more restrictive provisions, the Declaration shall control over any provision of any Supplemental Declaration that conflicts or is inconsistent with the Declaration.

(d) Conveyance of Common Property in Annexed Property. Prior to the conveyance of the first Lot or Dwelling Unit within any newly annexed property to any Person other than a Builder, the owner of the annexed property shall convey to the Association all Common Property, if any, located within the newly annexed property. Title to such Common Property shall be conveyed in the same manner as set forth in Section 3 of Article IV of the Declaration.

Section 3. Order of Development and Annexation. It is the Declarant's intent to develop the Properties it owns in accordance with the PD Plan, as modified from time to time. Provided, however, but subject to applicable Legal Requirements, the PD Plan shall not obligate the Declarant to develop any particular portion of the Properties now or in the future, the Declarant shall not be required to follow any particular sequence or order of development of the Properties, and the Declarant may annex or consent to annex additional real property to the Declaration before completing development of the portion of the Properties previously subjected to the Declaration.

Section 4. Withdrawal of Properties from the Declaration.

(a) At any time and from time to time during the Declarant Control Period the Declarant, in its sole discretion, without the approval or joinder of the Association or any Owner or other person or entity except the Owner of the portion of the Properties being withdrawn and the Town of Apex (if required) may record in the Registry a "withdrawal declaration" to withdraw one or more portions of the Properties from the Declaration, provided each portion of the Properties to be withdrawn either is (i) dedicated or to be dedicated to public use; or (ii) conveyed or to be conveyed to the Town; or (iii) zoned, used or intended for use for commercial or non-residential purposes. All portions of the Properties withdrawn from the Declaration shall be identified either by a plat recorded in the Registry or by a metes and bounds description. The withdrawal shall be effective on the date the withdrawal declaration is recorded in the Registry, or on such later date specified therein.

(b) After the end of the Declarant Control Period, at any time and from time to time one or more portions of the Properties may be withdrawn from the Declaration, provided such portion of the Properties to be withdrawn either is (i) dedicated or to be dedicated to public use;

or (ii) conveyed or to be conveyed to the Town; or (iii) zoned, used or intended for use for commercial or non-residential purposes, and the withdrawal has been approved by the Owner of such portion of the Properties and by the affirmative vote of sixty-seven percent (67%) or more of the votes cast by the Members present at a duly-called meeting of the Members for which the notice of the meeting includes notice of the proposal to withdraw such portion of the Properties, and such withdrawal is approved by the Town of Apex (if required).

(c) Following approval of any such withdrawal, the Association and the Owner of the portion of the Properties to be withdrawn from the Declaration shall record a withdrawal declaration particularly describing the withdrawn portions of the Properties by reference to a plat recorded in the Registry or by a metes and bounds description. The withdrawal shall be effective on the date the withdrawal declaration is recorded in the Registry, or on such later date specified therein.

Section 5. Effect of Annexation or Withdrawal. Other than as specifically limited by the Governing Documents or any applicable Legal Requirement, the Declarant shall have full power to add to, subtract from, or make changes in, the PD Plan, and annex real property to and withdraw real property from the Declaration, regardless of the fact that such actions may affect the relative voting strength of any class of membership in the Association or reduce the number of Owners subject to assessment under the Declaration. Any portion of the Properties that is withdrawn from the Declaration may be developed in any manner allowed under applicable Legal Requirements, and shall be released from the terms and provisions of the Declaration, except that all easements specifically affecting such withdrawn portions of the Properties, as shown on plats recorded in the Registry or as described in documents recorded in the Registry, shall remain in force and effect.

Section 6. Subdivision Declaration. Declarant contemplates that there will be within the Properties several separate and distinct residential phases, sections, or subdivisions. Because such phases, sections or subdivisions may have varying lot sizes, types of Dwelling Units, marketing considerations and other differences, it may be necessary or desirable to impose additional and different covenants and restrictions on such phases, sections or subdivisions which are applicable solely to such phase, section or subdivision (the foregoing being referred to herein as a "**Subdivision Declaration**"). Accordingly, the Declarant or other person who or entity which owns any such phase, section or subdivision of the Properties may subject such phase, section or subdivision to such Subdivision Declarations as the Declarant or other person or entity, in his, her or its sole discretion, may from time to time determine; provided, however, that during the Declarant Control Period no person other than the Declarant may subject any phase, section or subdivision of the Properties to any Subdivision Declaration unless the Declarant consents in writing thereto. More than one phase, section or subdivision may be subjected to the same Subdivision Declaration. Any Subdivision Declaration may specify such use restrictions and may contain such other terms, covenants, restrictions, easements, affirmative obligations, assessments, charges and liens, not inconsistent with the Declaration, as the person or entity subjecting such real property to the Subdivision Declaration may determine, which provisions may be more, but not less, restrictive than the provisions of the Declaration. Except for such more restrictive provisions, the Declaration shall control over any provision of any Subdivision Declaration that conflicts or is inconsistent with the Declaration.

**ARTICLE III
ASSOCIATION**

Section 1. Minimum List of Functions and Services. The following are the “Minimum List of Functions and Services” which the Association shall do, provide, perform, accept, or be responsible for, as the case may be:

- (a) The Association shall carry out the Association’s obligations and business under the terms of the Governing Documents, including legal, financial, accounting and communications services, and shall provide or procure the administrative services necessary in connection therewith.
- (b) The Association shall maintain the Common Property, including portions thereof located in easements granted to or reserved by the Association or by Declarant on behalf of the Association. In determining the level of maintenance to be performed by the Association, the Board may give due consideration to the extent to which the Town or any other Person is responsible for and performs such maintenance.
- (c) The Association shall accept transfer of ownership from Declarant of any and all Common Property.
- (d) The Association shall accept from Declarant any and all assignments of Declarant rights under the Declaration or any Supplemental Declaration, including assumption of all obligations which are incident to such assignments as they relate to any Common Property, architectural approvals or other functions or services performed or provided by the Association.
- (e) The Association shall accept from Declarant any and all appointments of the Association as the agent of Declarant for administration and enforcement of any of the provisions of the Declaration or any Supplemental Declaration, and shall assume all obligations which are incident to such appointments as they relate to any Common Property, architectural approvals or other functions or services performed or provided by the Association.
- (f) The Association shall operate the Architectural Review Committee(s) as and when provided in the Declaration.
- (g) The Association shall keep records of all its acts and corporate business, and, in particular, the Association shall keep financial records sufficiently detailed to enable the Association to comply with the Act.
- (h) The Association shall make available to each Member making written request therefor an annual financial report and, upon either the (i) the affirmative vote of majority of the votes cast by the Members present at a duly called meeting of the Association, or (ii) the written request of the Members possessing twenty-five percent (25%) or more of the total votes of all the Members of the Association, shall have such report audited (at the expense of the Association) by an independent certified public accountant, which audited report shall be made available to each Member making written request therefor.

(i) The Association shall make available for inspection by the Members and Mortgagees, upon reasonable request and during normal business hours, current copies of the Governing Documents, the rules and regulations of the Association, and the books, records and financial statements of the Association.

(j) As required by the Governing Documents and Legal Requirements, the Association shall establish a proposed annual operating budget, shall establish the amount of and collect assessments, and shall establish reserve funds.

(k) The Association shall hold meetings and give proper notice thereof, as required by the Governing Documents and applicable Legal Requirements.

(l) The Association shall pay all applicable ad valorem property taxes and Town assessments, if any, on the Common Property and other assets of the Association.

(m) The Association shall obtain and maintain insurance as required in the Declaration.

(n) The Association shall be responsible for storm water management as provided in this Declaration.

Section 2. Other Functions and Services. The Association is authorized, but not required (except as specified in the immediately preceding Section 1), to do, provide, perform, accept, or be responsible for any or all of the following:

(a) The Association may take all actions its deems necessary to enforce and implement the provisions of the Governing Documents, and to perform any of the functions or services delegated to the Association by the Governing Documents and, in connection therewith, except as specifically limited by the Declaration, the Association shall have all of the rights and powers described in Section 47F-3-102 of the Act as it from time to time exists.

(b) The Association may grant easements, leases, licenses and concessions through or over the Common Property, as the Board determines from time to time to be in the best interests of the Association provided easements do not interfere with access or utilities.

(c) Subject to the terms of any encroachment or other agreement between the Association and the Town, the Association may maintain grass and landscaping within street rights of way in or adjacent to the Properties, with such frequency and in such manner as determined by the Board. In determining the level of maintenance to be performed by the Association, the Board may give due consideration to the extent to which the Town or any other Person is responsible for and performs such maintenance. The Association may enter into encroachment and other agreements with the Town to enable it to perform such maintenance.

(d) To the extent that such services are not, in the opinion of the Board, provided adequately by the Town, the Association may provide services of a governmental nature for maintenance of portions of the Properties not owned by the Association.

(e) The Association may make reasonable rules and regulations for the use and operation of the Common Property, and amend them from time to time. Provided, however, any such rule or regulation adopted by the Board may be amended or repealed by the affirmative vote of a majority of the votes cast by the Members present at a duly called meeting of the Association.

(f) The Declarant and successors may establish and work with sub-associations under its authority in order to assist it in meeting its responsibilities in the management and operation of the separate and distinct residential phases, sections, and subdivisions within the Subdivision. Such sub-associations may include a condo sub-association, townhouse sub-association, patio home sub-association, or any other like sub-association that will assist the Association in the operation of the separate and distinct phases, section and subdivisions within the Subdivision. Such sub-associations' power and authority shall not exceed the power and authority delegated to the Association under this Declaration and they shall only have such power and authority as explicitly provided in a declaration by the Association to them.

(g) The Association may enter into agreements or contracts with utility companies with respect to utility installation, consumption and service matters relating to the Common Property.

(h) The Association may borrow funds to pay costs of operation of the Association, which borrowing may be secured by assignment or pledge of Association rights against Owners and Recreational Users who are delinquent in payment of assessments or by liens on other Association assets, as determined by the Board, subject to the Governing Documents and applicable Legal Requirements.

(i) The Association may enter into contracts to maintain one or more bank accounts.

(j) The Association may sue or defend in any court of law on behalf of the Association, and may employ attorneys and other necessary professionals in connection therewith.

(k) The Association may adjust the amount, collect, and use insurance proceeds to repair damage to or replace Common Property, and if proceeds are insufficient to repair damage to or replace same, levy special assessments (in the manner provided herein) to cover the deficiency.

(l) The Association may provide insect and pest control and other services for the Properties to the extent that it is deemed necessary or desirable, in the sole discretion of the Board;

(m) The Association may employ a manager or firm to manage the business and property of the Association (herein also referred to as a **"property manager"** or **"management company"**), and may employ independent contractors or other employees as the Board may deem necessary.

(n) The Association may retain the services of legal and accounting firms and such other professionals and/or tradesmen as it deems necessary and appropriate.

(o) The Association may contract with Declarant or any other Person for performance of services which the Association is required to perform pursuant to the terms hereof, such contracts to be at competitive rates and upon such terms and for such consideration as the Board may deem proper, advisable and in the best interests of the Association.

(p) The Association may establish from time to time the nonprofit corporation tax status of the Association for federal and State of North Carolina income tax purposes, as determined by the Board to be in the best interests of the Association.

(q) The Association may contract with other nonprofit corporations or associations which exist for purposes substantially similar to those for which the Association exists, with respect to the maintenance of property owned by such corporation or association.

(r) The Association may impose reasonable charges for late payment of assessments and, after notice and an opportunity to be heard, suspend privileges or services provided by the Association (except rights of access to Lots and rights of access to easements in Common Property that provide public utility services to Lots) during any period that assessments or other amounts due and owing to the Association remain unpaid for a period of thirty (30) days or longer.

(s) After notice and an opportunity to be heard, the Association may impose reasonable fines or suspend privileges or services provided by the Association (except rights of access to Lots and rights of access to easements in Common Property that provide public utility services to Lots) for reasonable periods for violations of the Declaration, the Bylaws or other Governing Documents.

(t) In addition to the insurance coverage required by the Declaration, the Association may obtain and maintain such other insurance coverage as the Board determines to be in the best interests of the Association.

(u) In addition to the foregoing, exercise all powers and rights authorized under the Act.

Section 3. Storm Water Management. Except for the maintenance responsibilities placed on Owners by this Section or assumed or undertaken by other Persons (for example, a Sub Association), the Association, as a Common Expense, shall: (i) maintain all storm water easements (also referred to herein as "storm water drainage easements" or "drainage easements") in the Properties that are shown on plats of the Properties recorded in the Registry or established by written instruments recorded in the Registry, and which either are located on the Common Property or benefit or serve more than one (1) Lot; and (ii) maintain the storm water management facilities, if any, on or serving the Properties, which are part of the storm water management system for the Properties as shown on approved Subdivision Plans or other plans approved by the Town. Storm water management facilities include ponds, natural areas and/or planted or landscaped areas into which storm water drains or in which storm water is collected, and also include drains, pipes and other equipment or apparatus used for handling storm water drainage. Provided, however, such maintenance obligations shall cease and terminate, or be reduced, at such time as the Town, through a department of public works or some other agency or division, elects to maintain, in whole or in part, the storm water drainage easements and storm

water management facilities, or some other Person is providing the necessary maintenance. Following any such assumption of maintenance by the Town or other Person, the Association may, without obligation, continue to provide maintenance to the extent that the Town or other Person fails to provide adequate maintenance, in the opinion of the Board. The Owner of any Parcel on or over which a storm water drainage easement (or portion thereof) is located shall be responsible for the following with respect thereto: (i) mowing of grass with reasonable frequency, where applicable; (ii) removal of debris and other matter to the best of the Owner's ability, where such debris or matter has impeded or threatens to impede the free flow of storm water over or through the drainage easement or any storm water management facilities located therein. Such Owner's responsibility shall include notification of the Association of any defects in any fencing, if any surrounding or within a storm water drainage easement or storm water management facility, any debris or other matter which the Owner feels is beyond the Owner's reasonable ability to remove, and any excessive erosion within a storm water drainage easement. The Owner of a Parcel on which a storm water drainage easement is located shall not obstruct that easement in any manner. The Owner of a Parcel served by a storm water drainage easement shall keep such Parcel clear of all debris and other matter which, if carried by water flow into or onto the area of the storm water drainage easement, might significantly impede the free flow of storm water over or through the easement or any storm water drainage facilities therein. Notwithstanding anything to the contrary herein, each Owner of a Parcel, and not the Association, shall be responsible for maintenance of all storm water drainage facilities and facilities used exclusively in connection with such Parcel or the Improvements thereon, including guttering, and pipes and drains for transportation of storm water from such Parcel into a storm water drainage easement or into a storm water management facility that is part of the storm water management system for the Properties.

Declarant, during the Declarant Control Period, and thereafter, the Association, subject to any approval required by the Town, may at any time and from time to time relocate, abandon and/or release one or more storm water drainage easements in the Properties, provided that such relocation, abandonment or release does not materially adversely affect any portion of the Properties, including the Common Property.

With respect to its obligations under this Section, the Association shall pay or post all bonds or other financial requirements under Legal Requirements, and the Association may enter into agreements with one or more Persons for collecting or managing any part or all of the storm water from the Properties in a location outside of the Properties. Such agreements may include payments from the Association for the services provided by such Person in collecting or managing such storm water from the Properties.

Declarant hereby informs all Owners, Recreational Users and other Persons who may from time to time deal with or come in contact with the Properties, that as storm water drains from the Properties into any of the storm water management facilities for the Properties, it is possible that substances or materials that may be classified or regulated as "hazardous substances" or "toxic substances" or other regulated substances or materials under Legal Requirements relating to the environment, may accumulate in such storm water management facilities. Accordingly, each Owner, Recreational User and other Person hereby is put on notice of the foregoing possibility, and agrees to assume the risk that such accumulation may occur. In

addition, each Owner further acknowledges that at some future time it may be necessary for such substances to be removed from the storm water management facilities or otherwise handled in accordance with Legal Requirements, and for such storm water management facilities to be cleaned-up following such removal or other handling, that the costs associated with such removal, handling and/or clean-up are Common Expenses, and that an additional annual assessment or a special assessment may be required to pay for such removal and/or resultant clean-up of the Storm Water Retention Facility.

Section 4. Conveyance or Dedication of Common Property. The Association, upon complying with the minimum required voting percentage under applicable provisions of the Act for conveyance or dedication of Common Property (at the time of recording of the Declaration Section 47F-3-1 12 of the Act requires the affirmative vote of eighty percent (80%) of the votes in the Association), and, in addition thereto, only after obtaining (i) the written agreement or consent of those Class A Members who have, or the affirmative vote at a duly called meeting of the Association of those Class A Members who have, sixty-seven percent (67%) or more of the total number of votes allocated to the Class A Members, and (ii) during the Declarant Control Period the written consent of Declarant, the Association, may dedicate portions of Common Property to public use, and may convey or exchange portions of Common Property, for any purpose approved by such Members (and, during the Declarant Control Period, also approved by Declarant), including any one or more of the following purposes: (i) to eliminate unintentional encroachments of Improvements or easements; (ii) to correct any building or other setback violations; (iii) to adjust boundary lines of portions of the Properties; and (iv) to facilitate the orderly subdivision and development of the Properties as determined by the Board. All such conveyances shall be subject to the following: (i) no such conveyance (either alone, or in conjunction with other conveyances) results in a reduction of the portion of the Common Property that constitutes "Resource Conservation Area" or "RCA" required by the Town below the minimum amount of "RCA", if any, required by the Town; (ii) if required by applicable Legal Requirements, the Town approves any boundary line adjustment; (iii) the exchanged properties are of like value and utility; (iv) any boundary line adjustment is approved by the Owners of all portions of the Properties affected by the adjustment; (v) each Parcel contiguous to Common Property prior to the conveyance remains contiguous to Common Property after the conveyance, unless otherwise approved by the affected Owner; (vi) the conveyance does not materially conflict with any applicable Subdivision Plan; (vii) no conveyance of Common Property deprives any Parcel of its rights of access and support; and (viii) any conveyance of real property to the Association must be free and clear of all encumbrances except for the Declaration and any applicable Supplemental Declaration, street rights of way or access easements, greenway easements and easements for utilities and storm water drainage.

Any of the foregoing real property acquired by the Association shall be part of the Common Property and, without further act of the Association or its Members, shall be released from all provisions of the Declaration (and any applicable Supplemental Declaration) except those applicable to the Common Property. The portion of the Common Property dedicated, conveyed or exchanged by the Association, without further act of the Association or its Members, shall cease to be Common Property and shall be subject to those provisions of the Declaration (and any applicable Supplemental Declaration) that would have been applicable to such real property had it not been Common Property, except that, if required by the Town, such

portion of the Common Property may be conveyed by the Association to the Town free and clear of all of the terms of the Declaration and any applicable Supplemental Declaration.

In addition to the foregoing requirements, during the Declarant Control Period any conveyance or dedication of Common Property also shall require approval by the United States Department of Housing and Urban Development (“HUD”) or its designee and/or by the United States Veterans Administration (“VA”) or its designee unless, at the time of such conveyance or dedication, applicable HUD or VA regulations no longer require such approval.

Section 5. Mortgage and Pledge of Common Property. The Association, upon complying with the minimum required voting percentage under applicable provisions of the Act for conveyance or dedication of Common Property (at the time of recording of the Declaration Section 47F-3-1 12 of the Act requires the affirmative vote of eighty percent (80%) of the votes in the Association), and, in addition thereto, upon (i) the written agreement or consent of those Class A Members who have, or the affirmative vote at a duly called meeting of the Association of those Class A Members who have, sixty-seven percent (67%) or more of the total number of votes allocated to the Class A Members, and (ii) during the Declarant Control Period, the written consent of Declarant, shall have the power and authority to mortgage the Common Property and to pledge its assets as security for loans made to the Association, which loans shall be used by the Association in performing its functions and providing services under the Declaration. Declarant may, but shall not be required to, make loans to the Association, subject to the foregoing and further subject to approval by such Person of the use to which such loan proceeds will be put and the terms pursuant to which such loans will be repaid. Notwithstanding anything in the Declaration to the contrary, at any time that there is any unpaid amount owed to Declarant under any loan made by it to the Association, without Declarant’s written consent the annual assessments shall not be reduced below the amounts in effect at the time such loan first was made.

In addition to the foregoing requirements, during the Declarant Control Period any mortgage or pledge of Common Property also shall require approval by the HUD or its designee and/or by the VA or its designee unless, at the time of such mortgage or pledge, applicable HUD or VA regulations no longer require such approval.

Section 6. Liability Limitations. Except as otherwise required by applicable Legal Requirements, neither Declarant nor any current or former Member of the Association, nor the Board, nor any director on the Board, nor any officer of the Association, nor any shareholder, director, officer, member, manager, agent or employee of Declarant, shall be personally liable for debts contracted or incurred by the Association or for a tort of another current or former Member, whether or not such other current or former Member was acting on behalf of the Association. Neither Declarant nor the Association, or any of the shareholders, directors, officers, partners, members, managers, agents or employees of same, acting in those official capacities, shall be liable for any incidental or consequential damages for failure to inspect any Owner’s Parcel or Improvements thereon, or for failure to maintain the same (provided, however, as required herein Declarant shall maintain all portions of the Properties it owns, and, except as otherwise specifically provided herein, directors on the Board and officers of the Association shall have all of the other obligations and liabilities of an Owner under the

Declaration with respect to portions of the Properties owned by such Persons). The Association shall indemnify all Association directors and officers, and members of the Architectural Review Committee and other committees of the Board, as required by the Articles and Bylaws.

Neither the Board, the Association, the Declarant, nor any current or former Member of the Association, shall be considered as a bailee of any personal property stored or placed on the Common Property (including vehicles parked on the Common Property), whether or not exclusive possession of the particular area is given to the Person who owns such personal property, nor shall any of the foregoing Persons (other than the Person who owns the personal property) be responsible for the security of such personal property or for any loss or damage thereto. The Association shall not be liable for any failure of or interruption to any service to be obtained by the Association or paid for as a Common Expense, or for personal injury or property damage which is caused by the elements or by any Owner or any other Person, or which results from electricity, water, snow or ice which may leak or flow from or over any portion of the Properties or from any pipe, drain, conduit, appliance or equipment, or any secondary or consequential damages of any type resulting from the foregoing. No diminution, offset or abatement of any assessment or other charge shall be claimed or allowed for inconvenience or discomfort arising from maintenance of the Common Property or from any action taken by the Association to comply with any Legal Requirement. This Section is not intended, nor shall it be construed, to relieve any insurer of its contractual obligations under any policy benefiting the Association or any Owner.

Section 7. Merger or Consolidation. Upon a merger or consolidation of the Association with another association in accordance with all applicable Legal Requirements, the properties, rights and obligations of the Association, by operation of law, may be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association, by operation of law, may be added to the properties, rights and obligations of the Association as the surviving corporation pursuant to a merger. The surviving or consolidated association shall be considered the Association under the Declaration and may administer the terms and provisions of the Declaration and any applicable Supplemental Declaration, together with the terms and provisions of any declarations, covenants and restrictions applicable to other property under the jurisdiction of the surviving or consolidated Association, as a common plan. Other than as specifically stated in the plan of merger or consolidation approved pursuant to all applicable Legal Requirements, no merger or consolidation shall effect any revocation of the provisions of the Declaration with respect to the Properties, including the limits on any assessment or any other matter substantially affecting the interests of the members of the Association. During the Declarant Control Period, no merger or consolidation of the Association with another association shall be valid without the written consent of Declarant. In addition to all applicable Legal Requirements, any merger or consolidation of the Association with another association shall be effective and legally valid only upon the affirmative vote by sixty-seven percent (67%) or more of the votes cast by the Class A Members of present at a duly called meeting of the Association.

In addition to the foregoing requirements, during the Declarant Control Period any merger or consolidation also shall require approval by the HUD or its designee and/or by the VA

or its designee unless, at the time of such merger or consolidation, applicable HUD or VA regulations no longer require such approval.

**ARTICLE IV
RIGHTS IN AND TO COMMON PROPERTY**

Section 1. Owners' Easements of Enjoyment and Access. Except as limited by the provisions of this Section 1 and by the rules and regulations adopted by the Members and/or the Board, every Owner shall have a right and easement of enjoyment in, use of and access to, from, and over the Common Property, which right and easement shall be appurtenant to and shall pass with title to every Parcel, subject to the following:

(a) subject to the provisions of the Apex Town Code UDO, the right of the Association to charge reasonable admission and other fees for the use of any Recreational Amenities and to limit the use thereof to Owners who occupy a Dwelling on the Properties and to their families, tenants and guests, as provided in Section 2 of this Article IV, and to Recreational Users.

(b) subject to any applicable notice and hearing requirements of the Act, the right of the Association to fine an Owner and/or suspend the rights (voting and other) and easements of enjoyment in and to the Common Property of an Owner or such Owner's family members, lessees or guests, for any period during which any assessment or other amount owed by the Owner to the Association remains unpaid, and for a reasonable period of time for any violation or infraction of the Governing Documents, the Act or the Association's published rules and regulations by an Owner or such Owner's family members, lessees or guests. Provided, however, no such suspension shall constitute a waiver or discharge of the Owner's obligation to pay any assessment or other charge under the Declaration. Further provided, the Association shall not suspend the right of any Owner to use any portion of the Common Property over which there is an easement that provides access for ingress and egress from a public street to such Owner's Parcel, or over which a sanitary sewer, water or other utility easement is located that provides such utility services to such Owner's Parcel, but such Owner shall remain subject to the rules and regulations, if any, established by the Association for use of such portion of the Common Property.

(c) the right of the Association to dedicate, sell, transfer or exchange all or any part of the Common Property, subject to the voting requirements for such actions contained in the Declaration.

(d) the right of the Declarant, during the Declarant Control Period, and the right of the Association, to grant easements over and across the Common Property to any public agency, authority or utility for the installation and maintenance therein of water and sanitary sewer, natural gas, telephone, cable television and other utilities, and storm water drainage facilities when, in the opinion of the Declarant or Board, as applicable, such easements are necessary for the convenient use and enjoyment of the Properties or any part thereof.

(e) the right of the Association to borrow money and, subject to the voting requirements for such actions contained in the Declaration, to mortgage, pledge, deed in trust, or hypothecate

any or all of the Common Property or its other assets as security for such indebtedness. Provided, however, that the rights of any such lender or mortgagee shall be subordinate to the property rights of the Members and the Association as provided in the Declaration.

(f) the right of the Association, as provided by and consistent with the provisions of Section 10-3073(a)(2) of the Apex Town Code, the Act and the Declaration, to exchange all or part of the Common Property for other property and consideration.

(g) the right of the Association to temporarily close or limit the use of Common Property for maintenance or installation of improvements thereon.

(h) the right of the Association to adopt and enforce rules and regulations governing the use of the Common Property.

(i) the rights of the grantee under the Communications Easement.

Section 2. Delegation of Use.

(a) Family. The right and easement of enjoyment and access in and to the Common Property granted to every Owner may be exercised by members of the Owner's family who occupy the Dwelling of the Owner within the Properties as their principal residence in Wake County, North Carolina.

(b) Tenants. The right and easement of enjoyment and access in and to the Common Property granted to every Owner may be delegated by such Owner to the Owner's tenants or contract purchasers who occupy a Dwelling within the Properties owned by the Owner, or a portion of said Dwelling, as their principal residence in Wake County, North Carolina.

(c) Guests. The right and easement of enjoyment and access in and to the Common Property granted to every Owner by this Article may be delegated to guests of such Owners, subject to such rules and regulations as may be established by the Board.

(d) Suspension of Rights. The rights of any Person to whom an Owner has delegated any right and easement of enjoyment and access in and to the Common Property shall be suspended by, upon and during suspension of such Owner's rights.

Section 3. Conveyance of Title to the Association. Declarant covenants, for itself, its successors and assigns, that it will convey title to the Common Property within each phase or section of the Community to the Association prior to the conveyance of the first Lot or Dwelling Unit within such phase or section to an Owner other than a Builder. Declarant reserves an easement over and across the Common Property so long as it owns any Parcel within the Properties for the purpose of constructing any improvements on the Common Property as it deems necessary or advisable, provided that any such improvements must comply with Legal Requirements. Except as otherwise stated herein, all conveyances by Declarant to the Association may be by special warranty deed and shall be free and clear of all encumbrances and liens, except greenway, utility, and drainage easements of record or shown on the recorded plats

of the Community, and the Declaration. Any improvements placed on the Common Property by Declarant shall become the property of the Association upon completion of such improvements.

Section 4. Rights and Responsibilities as to Common Property Easements.

(a) Owners. Each Owner of a Parcel upon which a Common Property Easement lies shall pay all property taxes and other assessments levied against such Parcel, including that portion of such tax or assessment as is attributable to such Common Property Easement. Notwithstanding any other provision of the Declaration, no Owner or other Person shall, without the prior written consent of the Association: (1) remove any trees or vegetation within a Common Property Easement; (2) erect gates, fences, or other structures on a Common Property Easement; (3) place any garbage receptacles on or in a Common Property Easement; (4) fill or excavate a Common Property Easement or any part thereof; or (5) plant vegetation or otherwise restrict or interfere with the use, maintenance and preservation of a Common Property Easement.

(b) Association. The Association and its employees, agents, contractors and subcontractors, shall have a nonexclusive right and easement at all times to enter upon any portion of a Parcel reserved or designated as a Common Property Easement for the purposes of: (i) installing and maintaining entrance sign and other signs, any and all of which shall have been approved by the Town of Apex prior to installation; (ii) making such improvements to the Common Property Easement as have been approved by the Association and, if required, by the Town of Apex; and (iii) maintaining the Common Property Easement in its natural or improved state, including, without limitation, removal of fallen trees and other debris and, in general, keeping the Common Property Easement free from obstructions and impediments to its use.

Section 5. Leases. Every lease or sublease between an Owner and a lessee for the lease of a portion of the Properties shall provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration and any applicable Subdivision Declaration, and that failure by the lessee to comply with the terms of such documents shall be a default under the terms of the lease. If an Owner fails to include said provision in any lease or sublease, it shall be conclusively deemed to be included and part of said lease or sublease.

Section 6. Ingress and Egress; Utilities. Notwithstanding anything to the contrary appearing in the Declaration, (i) if ingress and egress from a public street to any Parcel is over any part of the Common Property as shown on any plat or described in any instrument recorded in the Registry, or (ii) sanitary sewer, water or other utility services are provided to a Parcel over or through an easement located on the Common Property as shown on any plat or described in any instrument recorded in the Registry, any conveyance or encumbrance of the affected portion of the Common Property shall be subject to those easements for ingress and egress and/or utilities.

ARTICLE V
MEMBERSHIP AND VOTING RIGHTS IN A SUB-ASSOCIATION:
MEMBERSHIP AND VOTING RIGHTS IN THE MASTER ASSOCIATION:
ANNUAL AND SPECIAL ASSESSMENTS

Section 1. Membership and Voting Rights in a Sub-Association. The membership and voting rights in a Sub-Association shall be as set forth in the declaration pursuant to which the Sub-Association is formed. If provided for in such declaration the Sub-Association may, on behalf of its members, collect the assessments provided for therein and remit the same to the Association.

Section 2. Right of Declarant to Representation on Board of Directors of Master Association. Notwithstanding anything contained herein to the contrary, until December 31, 2015, or until Declarant shall have conveyed seventy-five percent (75%) of the lots that are from time to time approved by the Town of Apex for the development of the Properties, Declarant or its express assignee shall have the right to designate a two-thirds (2/3) majority of the Board of Directors of the Master Association. Whenever Declarant shall be entitled to designate and select any person(s) to serve on any Board of Directors, the manner in which such person(s) shall be designated shall be as provided in the appropriate Supplementary Declaration, Articles of Incorporation, and/or Bylaws for the Master Association. Declarant shall have the right to remove any person(s) so selected by it and to replace such person(s) so removed with another person(s) selected as herein provided. Any Director designated by Declarant need not be an Owner. Declarant, as a member of the Master Association, or any representative of Declarant serving on a Board of Directors, shall not be required to disqualify himself from the vote upon or entrance into any contract or matter between Declarant and the Master Association in which Declarant may have a pecuniary or other interest.

Section 3. Master Association Member Classes and Voting Rights. There shall be no voting rights for development parcels or Unsubdivided properties, and the Master Association shall have two (2) classes of voting members:

Class A: The Class A Members shall be every person or entity who or which is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, except for Declarant or any Affiliate, during any Period of Declarant Control. Class A Members shall be entitled to one (1) vote for each Lot owned.

Class B: Declarant shall be the Class B Member and Declarant shall be entitled to Three (3) votes for each Lot that is owned by Declarant or any Affiliate or for which Declarant or any Affiliate holds a contract right to purchase. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (i) when Declarant or any Affiliate ceases to own any Lot; however, the Class B membership shall be reinstated if thereafter, and before the time stated in subsection (iii) below, additional property is annexed to the Properties pursuant to the terms of this Declaration and following such annexation Declarant owns a number of Lots sufficient to allow the Class B membership to continue under subsection (ii) below;
- (ii) when the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership; however, the

Class B membership shall be reinstated if thereafter, and before the time stated in subsection (iii) below, the Master Plan is amended to add additional Lots sufficient to give the Class B membership a total number of votes (with the Class B membership entitled to Three (3) votes for each Lot that is owned by Declarant or any Affiliate or for which Declarant or any Affiliate holds a contract right to purchase) greater than those of the Class A membership; or,

(iii) twenty (20) years from the date this Declaration is recorded in the Office of the Register of Deeds, Wake County, North Carolina.

Section 6. Non-Voting Membership. Owners of Exempt Property, except for the Town (which shall not be a Member of the Association), shall be non-voting Members of the Association with respect to that Exempt Property. Declarant, in its sole discretion, also may designate the Owners of any property within the Properties as non-voting Members of the Association.

Section 7. Voting Rights. The exercise of voting rights shall be governed by the Bylaws of the Association.

Section 8. Voting Quorum and Notice Requirements for the Waster Association. Except as may be otherwise specifically set forth in this Master Declaration or in the Articles of Incorporation and/or Bylaws of the Master Association, the vote of the majority of the aggregate votes entitled to be cast by all classes of members of the Master Association, present or represented by legitimate proxy at a legally constituted meeting at which a quorum is present, shall be the act of the Master Association. The number of votes present at a Master Association meeting that is properly called and that will constitute a quorum shall be as set forth herein or in the Master Association Bylaws.

Section 9. Voting Rights Suspension. The right of any Class A member to vote may be suspended by the Board of Directors of the Master Association for just cause pursuant to its rules and regulations and according to the provisions of Article II, Section 7, of this Master Declaration.

Section 10. Declarant's Right To Representation On The Executive Board Of The Association. During any Period of Declarant Control, Declarant shall have the right to designate and select all of the Members of each Executive Board of the Association. Whenever Declarant shall be entitled to designate and select any person or persons to serve on any Executive Board of the Association, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or Bylaws of the Association, and Declarant shall have the right to remove any person or persons selected by it to act and serve on said Executive Board and to replace such person or persons with another person or other persons to act and serve in the place of any member or members of the Executive Board so removed for the remainder of the unexpired term of any member or members of the Executive Board so removed. Any Executive Board member designated and selected by Declarant need not be a resident of the Properties. Except as otherwise provided in the Bylaws with respect to the filling of vacancies,

any members of the Executive Board which Declarant is not entitled to designate or select shall be elected by the Members of the Association.

**ARTICLE VI
SHARED RECREATIONAL AMENITIES**

Recreational Amenities, including a swimming pool, clubhouse and related roadways, parking areas and other facilities have been constructed by Declarant on certain property as particularly described on **Exhibit B**, attached to this Declaration and incorporated herein by this reference (the “**Recreational Amenities Property**”). The Recreational Amenities Property shall be conveyed to the Association as Common Property hereunder subject to, and Declarant hereby declares that the Recreational Amenities Property hereafter shall be held, sold and conveyed subject to, and for the use and benefit of the Owners and Recreation Users, their successors and assigns, subject to the reasonable rules and regulations of the Association. The Association shall maintain the Recreational Amenities Property as Common Property in accordance with the terms of this Declaration for the shared benefit of its Members and the Recreation Users. The payment of such membership dues, together with interest thereon and the costs of collection thereof, including attorney’s fees, as provided for with respect to the payment of assessments hereunder by Owners, shall be a continuing lien upon said Owner’s property. In addition, such membership dues shall be the personal obligation of the person or entity who was the owner of such property at the time the membership dues became due. No Owner may escape liability for membership dues through nonuse of the Recreational Amenities.

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ARTICLE VII
ASSESSMENTS AND OTHER CHARGES

Section 1. Covenant for Assessments. The Declarant, for each portion or parcel of VILLAGES OF APEX owned by it, hereby covenants, and every Owner of any Lot covered by this Master Declaration by acceptance of a deed therefor, whether or not expressed in any such deed or other covenant, is deemed to covenant and agree to pay to the appropriate Sub-Association, each of which shall be fixed, established, and collected from time to time as hereinafter provided: (i) annual assessments, including but not limited to assessments for shared Recreational Amenities; (ii) Reserve Fund Assessment; (iii) special assessments for capital improvements or other matters as set forth herein; (iv) special individual assessments levied against an Owner to reimburse the Association for maintenance expenses resulting from the failure of such Owner to maintain adequately that Owner's Parcel, or for such other purposes as stated herein; (v) architectural review fees and costs as specified herein; (vi) fines for violations of Association rules and regulations with respect to use of the Common Property, including but not limited to the shared Recreational Amenities; (vii) late payment penalties and interest on unpaid assessments; (viii) Telecommunications Assessments; and (ix) other charges imposed under authority contained in the Governing Documents (architectural review fees, fines, penalties, interest and other charges all being referred to herein collectively as "**other charges**"), and, in addition to such assessments and other charges, to pay all costs, fees and expenses, including reasonable attorneys' fees, incurred by the Association in enforcing or collecting any of the foregoing assessments or other charges..

Unless specifically provided otherwise in this Master Declaration or any Supplementary Declaration, all lot owners will remit payment for assessments directly to the appropriate Sub-Association, with that Sub- Association remitting to the Master Association payment for all Master Association assessments charged against it in accordance herewith.

Each such assessment on a Lot, together with interest thereon and the costs of collection thereof, including attorney's fees, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which the assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees incurred by the Master Association or any Sub-Association in collecting delinquent assessments, shall also be the personal obligation of the person or entity who was the owner of such lot at the time the assessment became due. No Owner may escape liability for any assessment through nonuse of the Common Area or Limited Common Area or through abandonment of his property. The obligation of an Owner for delinquent assessments shall pass to his successors or assigns in title unless expressly excused by the Master Association or Sub-Association, except that such personal obligation shall not pass to mortgages or trustees under Deeds of Trust of such successor owner or assignee.

Section 2. Purposes of Master Association and Sub-Association Assessments. The assessments levied by the Master Association and each Sub-Association shall be used exclusively for the purpose of promoting the beautification of VILLAGES OF APEX, the recreation, health, safety and welfare of the owners in VILLAGES OF APEX, the enforcement

of this Master Declaration, any Supplementary Declaration, and the rules of the Master Association and Sub-Associations, and in particular, the improvement and maintenance of the services and facilities of the Common Areas, Limited Common Area, Landscape Easements, and Maintenance Easements. Anything contained in this Master Declaration to the contrary notwithstanding, until such time as the Class B membership shall cease and be converted to Class A membership, any costs associated with the initial construction and installation of improvements located in the Common Area, Limited Common Area, Landscape Easements, or Maintenance Easements shall be incurred by the Master Association or Sub-Association only after such initial improvements costs are approved by the majority of the votes of Class A members present or represented by proxy at a duly constituted meeting of Class A members at which a quorum is present.

Section 3. Annual Assessments. Each Owner shall pay to the appropriate Sub-Association, or if none, to the Master Association, and the annual assessment pursuant to this Master Declaration or as set out in the appropriate Supplementary Declaration ("**Sub-Association Assessment**"). On or before December 1st of each year, the Board of Directors of the Master Association shall set the amount of the Master Association assessment applicable to each Lot, Development Parcel, Owner and Recreational User for the ensuing year, taking into consideration, among other things, the then current development and/or maintenance costs to be borne by the Master Association, estimated increases in development and/or maintenance costs, and the future needs of the Master Association, which may include a reasonable contingency fund. The Master Association shall, immediately upon making such determination, provide written notice to each Sub-Association of the amount of the Master Association assessment due for the ensuing year. Upon receipt of such notice from the Master Association, each Sub-Association will immediately determine the amount of the Sub- Association assessment levied against each lot under its jurisdiction, subject to the rules, regulations, and limitations contained in the Master Declaration and the appropriate Supplementary Declaration. Written notice of each Sub-Association and Recreational User assessment shall be provided to each owner no later than January 15th of the ensuing year.

Section 4. Special Assessment. In addition to the annual assessment as authorized hereinabove, the Master Association may levy one or more special assessments applicable to that year only for the purpose of defraying the costs of construction or reconstruction, unexpected repair or replacement of any improvements located upon their respective Common Areas, Limited Common Areas, Landscape Easements, or Maintenance Easements, including the necessary fixtures and personal property related thereto, provided that any such special assessments shall have the assent of two-thirds (2/3) of the votes of each class of the members who are voting in person or by proxy at a seating duly called for this purpose, with notice of said seating having been sent to all members at least thirty (30) days in advance. Any such special assessment shall be assessed against the appropriate owners in the same manner and according to the same allocation formula as the regular annual assessments.

Section 5. Special Individual Assessments. The Master Association may levy special assessments against individual Owners or Recreational Users for reimbursement to the Master Association for repairs to their respective Common Areas, Limited Common Areas, Landscape Easements, or Maintenance Easements or any improvements thereto which are occasioned by the

willful or negligent acts of such owner(s) or Recreational User(s) and not the result of ordinary wear and tear, or for payment of fines, penalties, or other charges imposed against an owner relative to such owner's failure to comply with the terms of this Master Declaration, the Master Association, Articles of Incorporation and/or Bylaws, including without Limitation, reimbursement to the Master Association for expenses incurred in connection with the enforcement of the provisions of Article VII of this Master Declaration.

Section 6. Creation of the Lien. All assessments and other charges shall be established and collected as hereinafter provided. All assessments and other charges remaining unpaid for a period of thirty (30) days or longer, together with the costs of collection thereof, including reasonable attorneys' fees, shall constitute a lien on the Parcel against which they are assessed or charged from the time of the filing of a lien in the office of the Clerk of Superior Court of Wake County, North Carolina, and shall be the personal and continuing obligation of the Person who was the Owner of such Parcel at the time when the assessment or other charge first became due and payable. An Owner's and Recreational User's personal obligation for payment of such assessments and other charges shall not become the personal obligation of a subsequent Owner or Recreational User unless expressly assumed by the subsequent Owner or Recreational user. No Owner or Recreational User shall be exempt from liability for any assessment provided for herein by reason of non-use of the Common Property or such Owner's Parcel, or abandonment of a Parcel, or temporary unavailability of the use or enjoyment of the Common Property. If necessary to establish the right to collect reasonable attorneys' fees under the Declaration, any obligation of a Owner or Recreational User to pay assessments or other charges or monetary obligations under the Declaration shall constitute evidence of indebtedness for the purpose of establishing under Section 6-21.2 of the North Carolina General Statutes (or any successor statute) the right to collect reasonable attorneys' fees in any action or proceeding to enforce or collect payment of such obligation. Provided, however, the foregoing sentence specifically is intended to supplement, and not to interfere, limit, invalidate or be in conflict with, any provisions of the Act with respect to reasonable attorneys' fees.

Section 7. Liability for Assessments After Change in Membership Status. No Owner or Recreational User shall be relieved of, or released from, the obligation to pay assessments and other charges under the Declaration because of any resignation or attempted resignation by such Owner or Recreational User of membership in the Association while such Owner owns a Parcel, or because of any suspension of such Owner's membership or membership rights in the Association as allowed under the Governing Documents.

Section 8. Nature, Purpose and Use of Assessments. The assessments shall be used by the Association for any one or more of the following: (i) to pay the Common Expenses; (ii) to perform the functions or provide the services required or authorized of the Association pursuant to this Declaration and any applicable Supplemental Declaration; and (iii) to implement, administer and enforce the terms and provisions of this Declaration, as the Board determines to be in the best interests of the Association or its Members.

All assessments and other charges collected by the Association shall be the separate property of the Association. As assessments and other charges are paid to the Association by Owners and Recreational Users, such funds may be commingled with assessments and other

charges paid to the Association by other Owners and Recreational Users. No Member of the Association or Recreational User shall have the right to assign, hypothecate, pledge or in any manner transfer, such Member's interest in the assets of the Association, except as an appurtenance to the Parcel owned by such Member. When any Owner shall cease to be a Member of the Association, or any Recreation User shall cease to be a member of the home owner's association, the Association shall not be required to account to such Owner or Recreational User for any share of the funds or assets of the Association or any portion thereof which may have been paid to the Association by such Owner or Recreational User or acquired with any funds paid to the Association by such Owner or Recreational User.

Section 9. Commencement of Assessments. Parcels and Recreational Users shall be subject to annual and special assessments beginning with the first calendar month after the calendar month in which the Declaration is recorded in the Registry. Provided, any Parcel that first become a Lot or Development Parcel after the recording of the Declaration shall become subject to annual and special assessments on the first day of the calendar month immediately following the calendar month in which it becomes a Lot or Development Parcel. With respect to any Parcel that becomes subject to annual and special assessments beginning with any month other than January, the annual assessment for that calendar year shall be determined by multiplying the amount of the applicable annual assessment by a fraction whose numerator is the number of months in that calendar year that the Parcel is subject to assessment, and whose denominator is 12. The payment due date(s) for each annual assessment shall be as determined by the Board.

Section 10. Operating Budget. The Board shall adopt an operating budget for calendar year 2008, as there are no Members other than Declarant prior to January 1, 2008. Beginning with calendar year 2009, the Board shall adopt a proposed annual operating budget for the Association for each calendar year, containing an estimate of the total amount believed to be necessary to pay the Common Expenses for that calendar year, including such reasonable amounts as the Board deems necessary to provide working capital (available for day-to-day operating expenses and otherwise uncommitted for specific expenses), reserves for contingencies, and reserves for replacement of Common Property. The Board shall give due consideration to the annual operating budget in establishing the annual assessment for that calendar year. Within thirty (30) days after adoption of same, the Board shall provide a summary thereof to all Members (provided, however, a copy or summary provided to any one of multiple Owners of a Parcel is deemed to be provided to all Owners of such Parcel), together with a notice of the annual or special meeting of the Association at which ratification of such proposed annual operating budget will be considered, including a statement that the proposed annual operating budget may be ratified without a quorum for the meeting. The annual or special meeting at which ratification of the proposed annual operating budget is to be considered shall be held not less than ten (10) days nor more than sixty (60) days after mailing of the summary and notice. There shall be no requirement that a quorum be present at the meeting at which ratification of the proposed annual operating budget is to be considered. The proposed annual operating budget is ratified unless at that meeting Members possessing sixty-seven percent (67%) or more of the total number of votes in the Association reject it. In the event that the proposed annual operating budget is rejected, the annual operating budget last ratified by the

Members shall be continued until such time as the Members ratify a subsequent annual operating budget proposed by the Board.

Section 11. Collection of Assessments; Penalties for Late Payment.

(a) Annual and special assessments may be collected on a monthly, quarterly, annual or other basis, as determined from time to time by the Board, with the payment due date to be specified in the notice of the applicable assessment. The billing schedule shall be the same for all Owners and Recreational Users. The Board shall have the power at any time and from time to time, in its sole discretion and upon such terms as the Board deems appropriate, to allow percentage discounts to Owners and Recreational Users who pay annual and/or special assessments earlier than the payment due date therefor; provided, however, all such discounts shall be made available and applied uniformly to all Owners and Recreational Users.

(b) Subject to any limitations contained in the Declaration, other Governing Documents, or any applicable Legal Requirement, the Board has the authority at any time and from time to time to establish the payment due dates, interest rate on unpaid amounts, and penalties for late payment of annual and special assessments and other charges. Assessments and other charges not paid by the payment due date shall bear interest at a rate equal to the lesser of (i) eighteen percent (18%) per annum, or (ii) the highest lawful rate under applicable Legal Requirements, or (iii) the amount, if any, established by the Board (or, in the absence of any amount being established by the Board, the lesser amount otherwise established by this subsection). In addition to the obligation to pay the assessment and other charges and interest charges thereon, the defaulting owner also shall pay all of the Association's costs and expenses of collection thereof including reasonable attorneys' fees.

(c) The Board may at any time and from time to time authorize a management company or other billing agent, on behalf of the Association, to bill and collect all assessments and other charges payable under the Declaration.

Section 12. Certification of Assessments Paid. The Association (or any property manager authorized by the Association), upon demand and payment of a reasonable charge or fee established by the Association, shall furnish to any Owner or Recreational User or such Owner's or Recreational User's authorized agent, or to any holder of a first lien deed of trust on a Parcel, or to an attorney who represents the Owner or a prospective purchaser of such Parcel, or to any other Person approved by the Board, a certificate signed by an officer of the Association (or the authorized property manager) setting forth whether or not the assessments and other charges owed by such Owner have been paid. The certificate shall be furnished within ten (10) business days after receipt of the request therefor and it shall be binding on the Association, the Board and every Owner.

Section 13. Assessment Lien and Foreclosure. The assessments and other charges provided for herein shall be the personal and individual debt of each Person who, at the time of the assessment or other charge, is an Owner of the Parcel against which they are assessed or charged or of a Recreational User. Any assessment or other charge not paid on or before the payment due date and remaining unpaid for a period of thirty (30) days or longer, together with

the fines, penalty and interest charges as provided in the Declaration, plus the costs of collection (including reasonable attorneys' fees), shall be a charge and continuing lien on the Parcel (and all Improvements thereon) owned by the defaulting Owner or Recreational User from and after the date on which a claim of lien is filed by the Association in the office of the Wake County Clerk of Court. Except as otherwise provided in the Declaration or by Legal Requirements, such lien shall be superior to all other liens and charges against the Parcel and Improvements thereon or real property owned by such Recreational User. The Board shall have the power, in its sole discretion, to subordinate the lien to any other lien. The claim of lien shall set forth the name and address of the Association, the name of the record Owner of the Parcel at the time the claim of lien is filed or real property owned by such Recreational User, a description of the Parcel, and the amount of the lien claimed. In addition to the claim of lien, the Association may execute, issue or record such other evidence of the lien as the Board deems necessary. Subsequent to the filing of the lien in the office of the Wake County Clerk of Court, the Association may foreclose the claim of lien in like manner as a mortgage on real estate under a power of sale or in any other manner allowed or required by applicable Legal Requirements, and/or the Association may institute suit against the Owner or Recreational User personally obligated to pay the assessment or charge, and/or the Association may seek any other available remedy or relief. In any foreclosure proceeding the defaulting Owner or Recreational User shall be required to pay the costs, expenses, and reasonable attorneys' fees incurred by the Association. The Association shall have the power to bid on and purchase the Parcel at foreclosure and to acquire, hold, lease, mortgage, convey or otherwise deal therewith. The remedies against a defaulting Recreational User, Owner and such Owner's Parcel are cumulative and not mutually exclusive, and the Association may seek none, or any one or more of such remedies, separately or simultaneously, as deemed appropriate by the Board.

Section 14. Lien Priority. The lien for unpaid assessments and other charges provided for herein is prior to all liens and encumbrances on a Parcel except (i) liens and encumbrances (specifically including a mortgage or deed of trust on a Parcel) recorded before the docketing of the claim of lien in the office of the Wake County Clerk of Court, and (ii) liens for real estate taxes and other governmental entity assessments and charges against the Parcel. Provided, however, this Section does not affect the priority of mechanic's or materialmen's liens. A lien for unpaid assessments and other charges is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the docketing of the claim of lien in the office of the Wake County Clerk of Court. Where the holder of a first mortgage or first deed of trust of record, or other purchaser of a Parcel obtains title to the Parcel as a result of foreclosure of a first mortgage or first deed of trust or deed or other proceeding in lieu of foreclosure, such purchaser and its heirs, successors, and assigns, shall not be liable for the assessments against such Parcel which became due prior to the acquisition of title to such Parcel by such purchaser. Such unpaid assessments shall be deemed to be Common Expenses collectible from all the Owners and Recreational User, including such purchaser, its heirs, successors, and assigns in the event that the Association is unable to collect, or chooses not to pursue collection, from the Person who was the Recreational User or Owner of the Parcel during the time the assessments were assessed against the Parcel.

Section 15. Exempt Property. All Exempt Property is exempt from the assessments, charges and liens established pursuant to the Declaration.

Section 16. Reserve Funds. From the annual assessments the Board, in the exercise of its reasonable discretion, shall establish and maintain reserve funds for working capital, contingencies, and replacements of Common Property and Common Expense Properties. Reserve funds are subject to the following:

(a) Extraordinary expenditures not originally included in the annual operating budget, including (i) major rehabilitation or repair of the Common Property, (ii) emergency or other repairs required as a result of storm, fire, natural disaster or other casualty loss, or (iii) the initial costs of any new service to be performed by the Association, first shall be charged against the appropriate reserves. Except for expenses of normal and routine maintenance included in the annual operating budget, all expenses for repair or replacement of the Common Property shall be charged first against appropriate reserves.

(b) If reserve funds become excessive, as determined by the Board, the Board may adjust the reserve funds by reallocation to other annual operating budget items or by applying excess amounts as credits against annual assessments, or by refunding the excess amount to the then Owners and Recreational Users.

Section 17. Operating Fund and Amenity Assessments. At the first closing (as used in the Section, "First Closing") of the sale of each Lot after a Dwelling has been constructed thereon, the purchaser of the Lot and Dwelling and Condominium Unit shall pay to the Association at the time of the closing of the purchase an "Operating Fund Assessment" in an amount equal to one-fourth (1/4) of the then applicable annual assessment in an amount as determined by the Board each year. Additionally at the First Closing, the purchaser of the Lot and Dwelling and Condominium Unit shall pay to the Developer an "Amenity Assessment" for purchaser's allocation of the costs and expenses that Developer incurred in planning and constructing the club house, pool and other amenities for the collective enjoyment of the Owners in an amount as determined by the Board each year. The Operating Fund Assessment and Amenity Assessment shall be paid only once with respect to each Lot, and is in addition to all applicable annual and special assessments. All Operating Fund Assessments and Amenity Assessments shall be treated in the same manner as annual assessments and may be enforced and collected in the same manner as annual assessments.

Section 18. Telecommunication Assessment. A monthly assessment (the "Telecommunication Assessment") shall be paid by each Owner for the provision of Telecommunication Services to Owner's Lot through Bulk Service Agreements as set forth in Section 17 of Article XIX of this Declaration, such assessment to mean the fee and any applicable taxes, franchise fees, surcharges or other amount that may be charged by the service provider for provision of Telecommunication Services. The Telecommunication Assessment may be billed separately from other assessments levied by the Association, shall be in addition to the other assessments set forth in this Declaration, and shall be subject to the terms and conditions applicable to Assessments contained in this Article VII as applicable, provided such terms and conditions are not inconsistent with this Section 18. No Owner may be exempted from liability for the Telecommunication Assessment by reason of waiver of the use or enjoyment of the Telecommunication Services.

Section 19. No Default Under Insured Mortgage. Nothing contained in the Declaration shall be construed as stating or implying that any failure of an Owner or Recreational User to pay assessments constitutes a default under any mortgage on such Owner's Parcel or Recreational User's real property that is insured by the Federal Housing Administration or Veterans Administration, or any mortgage program administered by either of said agencies.

**ARTICLE VIII
INSURANCE**

Section 1. General Provisions.

(a) The Board shall have the power on behalf of the Association to: (i) purchase insurance policies relating to the Common Property and the activities of the Association; (ii) adjust all claims arising under such policies; and (iii) sign and deliver releases upon payment of claims. The cost of all insurance policies purchased by the Board as allowed or required by the Declaration is a Common Expense. Neither the Board, nor a property manager, nor Declarant, shall be liable for failure to obtain any insurance required by this Article, or for any loss or damage that could have been paid by such insurance, if such insurance is not reasonably available. With respect to insurance required by applicable Legal Requirements, the Association, either by hand delivery or United States Mail, postage prepaid, promptly shall notify the Owners if such insurance is not reasonably available, or if there is any material adverse modification, lapse, or cancellation of, such insurance that is not being replaced by other insurance.

(b) To the extent such policy provision is reasonably available, no policy obtained by the Association shall be canceled, invalidated or suspended due to the conduct of any Owner, or such Owner's lessee or such Owner's (or lessee's) household members, guests, employees or agents, or of any director, officer or employee of the Board, or the property manager, without a prior demand in writing that the Association or the property manager cure the defect and such defect is not cured within thirty (30) days after such demand.

(c) An insurer that has issued an insurance policy to the Association for property insurance on the Common Property or for liability insurance shall issue certificates or memoranda of insurance to the Association and, upon written request, to any Owner, mortgagee under any mortgage on a Parcel or beneficiary under any deed of trust on a Parcel. The insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association and each Owner, mortgagee and beneficiary to whom certificates or memoranda of insurance have been issued, to their respective last known addresses.

(d) All policies or insurance shall be written by reputable companies licensed or qualified to do business in North Carolina.

(e) The deductible or retained limit (if any) on any insurance policy obtained by the Association shall be a Common Expense.

Section 2. Property Insurance.

(a) Commencing not later than the first conveyance of a Lot to a Class A Member other than a Builder, the Association, to the extent that it is reasonably available, shall obtain and maintain property insurance on the Common Property insuring against all risks of direct physical loss commonly insured against, including fire damage and extended coverage perils. The total amount of such insurance after application of any deductibles shall be not less than eighty

percent (80%) of the replacement cost of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies. The Board shall also obtain and maintain appropriate coverage on personal property owned by the Association.

(b) Each such property policy also shall provide:

- (1) that each Owner is an insured person under the policy to the extent of such Owner's insurable interest;
- (2) that the insurer waives its right to subrogation under the policy against any Owner or member of that Owner's household;
- (3) that no act or omission by any Owner, unless acting within the scope of such Owner's authority on behalf of the Association, will preclude recovery under the policy; and
- (4) that any "no other insurance" clause expressly exclude individual Owner's policies from its operation so that the Association's policy provides primary coverage and any individual Owners' policies covering the same risk shall be excess coverage, and in no event shall the insurance coverage obtained and maintained by the Association hereunder provide for or be brought into contribution with insurance purchased by Owners or Mortgagees, unless otherwise required by law;

(c) Certificates of property insurance on the Common Property, all renewals thereof, and any sub-policies or certificates and endorsements issued thereunder, together with proof of payment of premiums, shall be delivered by the insurer to any Mortgagee requesting the same.

Section 3. Liability Insurance. Commencing not later than the first conveyance of a Lot to a Class A Member other than a Builder, the Association, to the extent that it is reasonably available, shall obtain and maintain liability insurance in reasonable amounts, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership or maintenance of the Common Property. "Umbrella" liability insurance in excess of the primary limits may be obtained in reasonable amounts as determined by the Board in its sole discretion.

Section 4. Other Insurance. The Association may obtain and maintain other insurance as follows:

(a) adequate fidelity coverage to protect against dishonest acts on the part of directors, officers, trustees and employees of the Association and all others who handle or are responsible for handling funds of the Association, including any property manager and volunteers. If the Association has delegated some or all of the responsibility for handling funds to a property manager, such property manager shall be covered by its own fidelity insurance; however, the Board may purchase additional fidelity coverage for the property manager as well. Such fidelity insurance (except for fidelity insurance obtained by the property manager for its own personnel)

shall: (i) name the Association as an obligee; (ii) be written in an amount not less than one-fourth of the total annual assessment for Common Expenses or the amount required by the Mortgagees, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, whichever is greatest; and (iii) contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

(b) if required by a majority of the Mortgagees or any applicable Legal Requirement, flood insurance on the Common Property in accordance with the then applicable regulations for such coverage.

(c) workers' compensation insurance if and to the extent necessary to meet the requirements of law (including a voluntary employees endorsement and an "all states" endorsement).

(d) directors and officers liability insurance.

(e) such other insurance as the Board may determine from time to time in the exercise of its reasonable discretion, or as may be requested from time to time by the affirmative vote of a majority of the Members present at a duly called meeting of the Association.

Section 5. Owners' Insurance. In addition to any insurance policy issued to the Association, each Owner shall have the right to obtain insurance for such Owner's benefit, at such Owner's expense. Provided, however, no Owner shall acquire or maintain insurance coverage on the Common Property so as to: (i) decrease the amount which the Association may realize under any insurance policy maintained by the Association; or (ii) cause any insurance coverage maintained by the Association to be brought into contribution with insurance coverage obtained by an Owner.

**ARTICLE IX
REPAIR AND RESTORATION OF THE PROPERTIES**

Section 1. When Required.

(a) Common Property. If all or any part of the Common Property for which property insurance under the Declaration or applicable Legal Requirements is damaged or destroyed the Association promptly shall repair or replace same unless (i) the Declaration is terminated, (ii) repair or replacement would be illegal under any applicable Legal Requirement, or (iii) the Members decide not to repair, restore or replace by a vote of eighty percent (80%) or more of the votes cast by the Members present at a duly called meeting of the Association (which vote, during the Declarant Control Period, also must be have the affirmative vote of a majority of the Class A Members who are present at such meeting, and which vote, with respect to any Limited Common Element or Common Element necessary for access or utilities, must have the approval of one hundred percent (100%) of the Members to which such Limited Common Element is allocated). The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense, for which there may be a special assessment.

If the damage is not repaired or replaced, then (i) the Association, first using the insurance proceeds attributable to the damaged property, shall remove all remnants of the damaged improvements and restore the damaged area to a condition compatible with the remainder of the Properties, (ii) the insurance proceeds attributable to Limited Common Property which are not repaired or replaced shall be distributed to the Members to whom such Limited Common Property were allocated, or to lienholders, as their interests may appear, and (iii) the remainder of the insurance proceeds shall be distributed to all of the Members or lienholders, as their interests may appear, in proportion to the Common Expense liabilities of all of the Lots and Development Parcels. Provided, however, and notwithstanding the foregoing, if the Declaration is terminated, the distribution of insurance proceeds shall be in compliance with the applicable requirements of the Act.

(b) Lots. If a Dwelling or other Improvement located upon a Lot is damaged or destroyed, the Owner thereof shall restore the site either: (i) by repairing or replacing such Dwelling or other Improvement; or (ii) by clearing away the debris and restoring the site to a condition compatible with the remainder of the Properties. Unless the Architectural Review Committee permits a longer time period, such work must be commenced within six months and substantially completed within twelve months after the occurrence of the damage or destruction. Any repair or replacement that differs in any material respect from the previously Approved Plans for the Dwelling or other Improvement that was damaged or destroyed first must be approved by the Architectural Review Committee in the manner required herein.

Section 2. Eminent Domain.

(a) Definitions. For the purposes of this Section, "Taking" means an acquisition of all or any part of the affected portion of the Properties or of any interest therein or right accruing thereto as a result of, in lieu of, or in anticipation of, the exercise of the right of condemnation or eminent domain, or a change of grade caused by the action of the Town affecting the value of the Common Property or any part thereof so severely as to amount to condemnation.

(b) Taking of Lot. If there is a Taking of a Lot, or a Taking of part of a Lot leaving the Owner with a remnant which may not practically or lawfully be used for any purpose permitted under the Declaration, the award shall compensate the Owner for the Lot and the Owner's interest in the Common Property. Upon such Taking, there shall be no votes in the Association allocated to such Lot, or remnant thereof, nor shall such Lot or remnant thereof, be subject to any further assessments under the Declaration.

If there is a Taking of part of a Lot, the award shall compensate the Owner for the reduction in value of the Lot. With respect to determining the foregoing, in the event of a Taking of part of a Lot there shall be no reduction in the vote allocated to that Lot nor in the assessments assessed against such Lot.

(c) Taking of Common Property. If there is a Taking of all or any part of the Common Property, then the Association shall notify the Owners, but the Board shall act on behalf of the Association in connection therewith and no Owner shall have any right to participate in the proceedings incident thereto as an Owner. The award made for such Taking shall be payable to

the Association, to be disbursed as follows. If the Taking involves a portion of the Common Property on which improvements have been constructed, then the Association, to the extent reasonably practicable and in accordance with plans reasonably adopted by the Board, shall restore or replace such Common Property improvements, unless a contrary determination is made by Declarant, during the Declarant Control Period, or, following the end of the Declarant Control Period, by the affirmative vote of sixty-seven percent (67%) or more of the votes cast by the Members present at a duly called meeting of the Association.

If any portion of any award for a Taking of the Common Property is attributable to any Limited Common Element, such portion of the award shall be apportioned equally between the Association and the Owners of the Lots to which the Limited Common Element was allocated at the time of the Taking.

ARTICLE X
USE OF THE PROPERTIES; PROTECTION OF COMMON ELEMENTS

Section 1. Use of the Properties. No portion of the Properties shall be used for other than residential, recreational, live/work units or substantially related purposes which are permissible under applicable Town UDO for residential zoning districts. Provided, however, and notwithstanding the foregoing sentence, during the Declarant Control Period: (i) Declarant, and any Builder with Declarant's consent, may maintain sales offices and temporary construction trailers on any portion of the Properties owned by such Person, for the purpose of conducting business related to the development, improvement or sale of such portion of the Properties or the construction of improvements thereon. Provided, however, all such non-residential uses must comply with all applicable Legal Requirements; and (ii) Declarant, and any Builder with Declarant's consent, may conduct such business activities on any portion of the Properties owned by such Person as may be necessary in connection with the development and/or sales or marketing of any part or all of the Properties.

Section 2. Owner Liability. If any Owner is legally responsible for damage inflicted on any Common Property, the Association may direct such Owner to repair such damage, or the Association may itself cause the repairs to be made and recover damages from the responsible Owner, including costs incurred in seeking and enforcing applicable legal remedies, including reasonable attorneys' fees.

Section 3. Legal Requirements. Nothing herein contained shall be deemed to constitute a waiver of any Legal Requirement applicable to any portion of the Properties, and all applicable Legal Requirements relative to the construction of Improvements on, and/or use and utilization of, any portion of the Properties shall be complied with by the Owners and occupants of such portions of the Properties, whether or not the Approved Plans for same are in compliance with such Legal Requirements. Provided, that in any instance in which the provisions of the Declaration impose a more restrictive requirement than the applicable Legal Requirements, the provisions of the Declaration shall be complied with in addition to the applicable Legal Requirements.

Section 4. New Construction. Construction of new Dwellings only shall be permitted on Lots and Development Parcels, it being the intent of this Section to prohibit the moving of any existing building or structure onto any Lot or Development Parcel and remodeling or converting same into a Dwelling. Provided, however, the foregoing shall not be construed as prohibiting maintenance of, remodeling of, or construction of additions to, existing Dwellings that previously have been constructed in compliance with the Declaration, provided that such maintenance, remodeling or additions is performed in accordance with the Approved Plans therefor.

Section 5. Rules of the Association. All Owners and occupants of Parcels shall abide by all rules and regulations for the Common Property adopted by the Board. The Board shall have the power to enforce compliance with said rules and regulations by all appropriate legal and equitable remedies, and any Owner determined by judicial action to have violated said rules and regulations shall be liable to the Association for all damages and fines, including costs incurred in seeking and enforcing applicable legal remedies, including reasonable attorneys' fees.

Section 6. Temporary Structures Prohibited. No structure of a temporary character, such as a trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any portion of the Properties at any time as a Dwelling.

Section 7. Wetlands; Buffers. Portions of the Properties may have been determined to meet the requirements for designation as a regulatory wetland. Notwithstanding anything to the contrary that may appear herein or in any other restrictive covenants applicable to such portions of the Properties, any subsequent fill or alteration of any portion of the Properties that has been determined to be a regulatory wetland under applicable laws of the United States or the State of North Carolina shall conform to the requirements of applicable wetland rules adopted by the United States or the State of North Carolina and in force at the time of the proposed alteration. The intent of this Section is to prevent additional wetland fill except as allowed under applicable Legal Requirements, so the Owner of any such portion of the Properties should not assume that a future application for fill or alteration of a wetland will be approved. The Owner of any portion of the Properties subject to any such future application shall report the name of the development (in this case, VILLAGES OF APEX), together with the name of the particular phase, section or subdivision within the Properties, if any, in any application pertaining to wetland rules. The provisions of this Section are intended to ensure continued compliance with wetland rules adopted by the United States or State of North Carolina and this covenant may be enforced by the United States or State of North Carolina. Portions of the Properties also may be subject to buffer requirements. The provisions of this Section shall run with the Properties and be binding on all Owners of any part or all of the Properties and all persons claiming under them.

Section 8. Animals. No animals of any kind (including livestock, reptiles or poultry) shall be kept on any portion of the Properties or in any Dwelling except for dogs, cats or other household pets which are not used for breeding or other commercial purposes, and provided that they do not create a nuisance (in the judgment of the Board), by number of animals, noise, odor, damage or destruction of property, animal waste, or any other reason, and further provided that they are kept in compliance with all applicable Legal Requirements and such rules and regulations pertaining thereto as the Board may adopt from time to time, which rules and

regulations may include requirements that all such animals be kept on a leash or otherwise restrained whenever they are anywhere on the Properties other than on the Owner's Lot or other areas specifically designated for animals not on leashes, and that animals not be allowed on the Recreational Amenities. The Owner responsible for an animal being on the Properties shall promptly clean up or remove from the Properties all solid bodily wastes from that animal.

Each Owner who keeps any animal on any portion of the Properties shall be deemed to have indemnified and agreed to hold harmless the Association, Declarant and all other Owners, from and against any loss, claim for damages to person or property, cause of action, or liability of any kind, including all costs of defending against same (including reasonable attorneys' fees), arising out of or resulting from such animal, including any actions of the animal. An easement over and upon the Properties hereby is reserved for the Town to exercise and enforce all applicable Legal Requirements relating to animal control.

Section 9. Antennas and Other Attachments. No permanent attachments of any kind or character whatsoever (including, but not limited to, television and radio antennas and satellite dishes or other device for reception of television or radio signals) shall be made to the roof or exterior walls of any Dwelling or other building on any portion of the Properties, nor shall the same be located on any portion of the Properties outside of any Dwelling or other building, unless such attachments first shall have been submitted to and approved by the Architectural Review Committee. Provided, however, the Association shall not prevent access to telecommunication services in violation of any applicable Legal Requirement. Generally, exterior antennas, satellite dishes greater than one meter (39 inches) in diameter, or satellite dishes or other reception devices located in or on the front of a Dwelling or other building, will not be allowed on the Properties. Provided, however, (i) an Owner may install an antenna, radio antenna, satellite dish or other like device for reception of television, radio signals or the like permitted by any applicable architectural guideline upon prior written notice to the Architectural Review Committee; (ii) the Architectural Review Committee may approve other antennas in appropriate circumstances; and (iii) the Architectural Review Committee may establish additional guidelines as technology changes. Further provided, the Association may, but shall not be required to, install and maintain antennas, satellite dishes or similar equipment in or on the Common Property to serve the Common Property and/or the Properties. No outdoor clotheslines shall be allowed on any portion of the Properties.

Section 10. Boats, etc. No motorboat, houseboat or other similar water-borne vehicle, airplane, travel trailer, other trailer, or "camper" vehicle shall be maintained, stored or kept on any portion of the Properties, except in enclosed garages or screened areas approved by the Architectural Review Committee, nor shall any of the foregoing at any time be parked on any street within the Properties. Other than as provided herein, such recreational vehicles used for purposes other than traditional and standard transportation, may only be parked within the properties in pre-approved areas and upon registration of those vehicles with the Home Owners Associations.

Section 11. Fences, Walls and Hedges. Except as specifically approved in writing by the Architectural Review Committee with respect to Approved Plans or in architectural guidelines, or except as maintained by the Association on any Common Property, no fence shall be

maintained on a Lot or Development Parcel, and no fence, wall or hedge shall be maintained on any Lot nearer to any street adjoining the front of such Lot than the front corner of the Dwelling thereon, and shall not exceed six (6) feet in height. All fences on Lots shall be maintained at all times in a structurally sound and attractive manner and in a good state of repair, and shall consist of materials approved by the Architectural Review Committee. Provided, however, the foregoing shall not be construed to prohibit, or require prior Architectural Review Committee approval for, fencing to contain trash or "silt" fencing or other soil erosion control fencing used in connection with the construction of Improvements on the Lots.

Section 12. Harmful Discharges. There shall be no emissions of dust, sweepings, dirt, cinders, odors, gases or other substances from any portion of the Properties into the atmosphere (other than those resulting from cleaning or normal, residential chimney or outdoor grill emissions), there shall be no production, storage or discharge of hazardous wastes from or on any portion of the Properties, and there shall be no discharges of liquid or solid wastes or other harmful matter into the ground, sewer or any body of water within the Properties, if such emission, production, storage or discharge may adversely affect the use of any portion of the Properties, or may adversely affect the health, safety or comfort of the occupants of the Properties. Provided, however, the foregoing prohibitions shall not prevent or interfere with the reasonable development or maintenance of any portion of the Properties by Declarant or any other Owner in accordance with applicable Legal Requirements, nor shall they prevent the reasonable use, handling, storage and disposal of medically related hazardous substances and wastes in compliance with all applicable Legal Requirements.

Section 13. Home Businesses. An Owner may maintain an office or home business on such Owner's Lot or in any Dwelling or other improvement located on the Lot only if: (i) such office or home business is operated by the Owner or a member of the Owner's household residing on the Lot, or by Owner's tenant residing on the Lot; (ii) there are no displays or signs indicating that the Lot or improvement is being used other than as a residence; (iii) such office or business does not generate significant traffic or parking usage (as determined by the Board) by clients, customers or other Persons; (iv) no equipment or other items related to the office or business is stored, parked or otherwise kept on such Owner's Lot outside of the Dwelling or other enclosure approved by the Architectural Review Committee; (v) such Owner has obtained from the Town, and maintains in effect, all required approvals for such use; (vi) the activity is consistent with the residential nature of the Properties and complies with all applicable Legal Requirements; (vii) no person is employed in such office or home business except for the Owner or the members of the Owner's household residing on the Lot or the Owner's tenant residing on the Lot; and (viii) the Owner has obtained prior written approval from the Board and thereafter registers annually with the Association as long as the operation of the home business continues. As a condition to such use, the Board may require the Owner to pay any increase in the rate of insurance, trash removal, utilities or other costs for the Association or other Owners which result from such use. Garage sales, yard sales and similar activities shall be conducted only in accordance with all applicable Legal Requirements and the rules and regulations, if any, adopted by the Board.

Section 14. Hunting; Discharge of Firearms. Hunting and trapping of wild animals, fowl and game and the discharge of firearms and/or bows and arrows and/or other weapons within the Properties is prohibited, unless required for public or private safety.

Section 15. Landscaping; Utility Lines. No fence, wall, tree, hedge or shrub planting which obstructs sight lines for vehicular traffic on public or private streets in the Properties shall be placed or permitted to remain on any portion of the Properties. Pavement, plants, trees and other landscape and decorative materials shall not be placed or permitted to remain on any portion of the Properties: (i) if such materials may damage or interfere with any easement for the installation or maintenance of utilities; or (ii) in violation of the requirements of such easements; or (iii) unless in conformity with applicable standards of holder of the easement; or (iv) if such materials may unreasonably change, obstruct or retard direction or flow of any storm water drainage. Otherwise, the installation and maintenance of such materials within utility easements shall be permitted. Except for hoses, temporary lines and other equipment reasonably necessary in connection with construction or maintenance activities or normal landscape or yard maintenance, no water pipe, sewer pipe, gas pipe, storm water drainage pipe, television or telephone cable, electric line or other, similar transmission line shall be installed or maintained on any Parcel above the surface of the ground, except for those located in easements maintained by the Town or applicable public utility provider or otherwise required by the Town or applicable public utility provider, or as necessary for such pipes, lines and other facilities to function properly, or as approved by Declarant during the Declarant Control Period, or as approved by the Board following the end of the Declarant Control Period.

Section 16. Lighting. No exterior lighting on any portion of the Properties shall be directed outside the boundaries thereof, except for required street and parking lot lighting and as otherwise approved by the Architectural Review Committee. Typical residential floodlights and other decorative lighting directed toward the Dwelling on a Lot shall be permitted when used in a reasonable manner. All exterior lighting that is not in conformity with applicable architectural guidelines, if any, first shall be approved in writing by the Architectural Review Committee.

Section 17. Mailboxes and Newspaper Tubes. Mailboxes shall be affixed to a substantial pole or stand permanently placed in the ground and shall not be located within a sidewalk. Newspaper tubes shall conform to the architectural guidelines for same, if any. Architectural guidelines with respect to mailboxes and newspaper tubes may require, prohibit, restrict or specify one or more of the following: method and type of support; style; material; color; size; height; and one or more of the foregoing with respect to the numbering and/or lettering to be placed on a mailbox or newspaper tube, or affixed thereto. There may be different mailbox and newspaper tube requirements for the various phases, sections or subdivisions within the Properties.

Section 18. Motorized Vehicles; On-Street Parking. All motorized vehicles operating within the Properties, including automobiles, motorcycles, trucks and golf carts, must have proper and adequate mufflers. Each Owner, or any applicable Sub-Association, shall provide for adequate parking space on such Owner's Lot or on Sub-Association Common Property for all motorized vehicles and bicycles regularly used in connection with such Lot. No vehicles of any kind or any other apparatus designed for movement over and upon streets or highways (whether

self-propelled or not) shall be parked in the Common Property (except in areas, if any, designated for parking) and no vehicles of any kind shall be regularly parked on the streets within or adjoining the Properties, and trucks with tonnage in excess of one (1) ton shall not be permitted to park overnight on the streets, driveways or otherwise within the Properties, except that, during the Declarant Control Period, Declarant, and thereafter, the Board, may allow such parking by any vehicles used in connection with the construction of improvements within the Properties. In addition to and supplemental to the foregoing, the Association may promulgate and enforce rules and regulations relating to parking on the streets within or adjoining the Properties, including allowing temporary on street parking for special events related to the Recreational Amenities. Specific parking shall be designated by the Architectural Review Committee for visitors of residents, and residents shall be responsible for insuring that any visitors they invite to park within the Villages of Apex park in the spaces designated for visitors. No visitor may park in any visitor designated parking area for more than twenty-four (24) hours without prior written approval from the Declarant during the Control Period, or any member of the Association's Board of Directors thereafter.

Section 19. Noises. No Person shall cause any unreasonably loud noise anywhere on the Properties, except for security devices used in the manner intended therefor, nor shall any Person permit or engage in any activity, practice or behavior resulting in substantial and unjustified annoyance, discomfort or disturbance to any Person lawfully present on any portion of the Properties. Provided, however, the prohibition against noises contained in this Section shall not preclude or limit activities on the Recreational Amenities or other Common Property or Sub-Association Common Property conducted in accordance with the applicable rules and regulations of the Association, including swim meets, parades and other athletic and social events. Further provided, the foregoing prohibitions shall not prevent or interfere with the reasonable development or maintenance of any portion of the Properties by the Association, Declarant or any other Owner in accordance with applicable Legal Requirements.

Section 20. Nuisance and Other Matters. No noxious or offensive activity shall be conducted upon any portion of the Properties, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Provided, however, the usual, customary or reasonable use and maintenance of a Lot, a Dwelling, the Recreational Amenities, or any other Common Property, shall not constitute a nuisance. Further provided, the development of the Properties by Declarant and Builders, and the usual, customary or reasonable construction and maintenance of Dwellings and other improvements in the Properties shall not constitute a nuisance. Further provided, the operation and use of the Recreational Amenities in the manner required or allowed by the provisions of the Declaration shall not constitute a nuisance.

No trade materials or inventories (other than materials used for construction of Dwellings or other approved structures or improvements) shall be stored upon any portion of the Properties and no tractors, inoperable motor vehicles, rubbish, trash, or unsightly materials of any kind shall be stored, regularly placed, or allowed to remain on any portion of the Properties unless adequately screened or contained as approved by the Architectural Review Committee, except that trash, leaves, tree limbs, materials for recycling pick-up and similar items may be kept or placed temporarily and only for such time as is reasonably necessary to enable the Town or

appropriate private entity to remove same, and inoperable motor vehicles may be stored if the same are kept entirely in an enclosed garage. Provided, however, as approved by Declarant during the Declarant Development Period, trucks and/or other construction vehicles, materials and equipment may be allowed to remain on the Properties temporarily during construction of roads, utilities, the Recreational Amenities, Dwellings and other improvements in the Properties, and such vehicles, materials and equipment also may be allowed to remain on the Properties during construction or maintenance on the Properties of Dwellings and/or other improvements which have been approved by the Architectural Review Committee. Notwithstanding the foregoing, no vehicle of any type or size which transports inflammatory or explosive cargo or which stores or transports materials or substances defined as hazardous or toxic by any applicable Legal Requirements shall be kept or stored or allowed to remain in or on the Properties at any time, except as may be required to effectuate transportation or removal of such prohibited materials and substances through or from the Properties, or, with respect to explosive materials, as may be reasonably required in connection with the construction or installation of streets and utilities in the Properties, or as may be allowed by Declarant, during the Declarant Control Period, and thereafter, the Board, when reasonably required for the construction of other improvements within the Properties.

Section 21. Obstructions, etc. No Owner shall obstruct any of the Common Property, Town greenways or greenway easements or any pedestrian access easements providing access to Common Property or Town greenways or greenway easements, nor shall anything be kept, stored, altered, constructed or planted in or on the Common Property or removed therefrom (except as necessary to prevent injury to person or property), without the prior consent of Declarant, during the Declarant Development Period, and, thereafter, the Board, or except in the exercise of any valid easement over any portion of the Common Property. Provided, however, the Association, and, during the Declarant Development Period Declarant and Builders (with Declarant's consent), shall have the right to maintain signs in and on the Common Property, and to maintain in the Common Property such materials, equipment and other apparatus, as may be reasonably necessary to enable the Association to perform its functions and provide the services under the Declaration, or to enable Declarant or such Builders to market and sell the Properties. The rights of use and enjoyment of the Common Property conferred upon Owners by the Declaration do not include the right to interfere with the Declarant's, any Builder's, or the Association's use or maintenance of the Common Property.

Section 22. Prohibition on Use for Streets. Without the express written consent of Declarant during the Declarant Development Period (and, thereafter, by the Board), which consent may be given or denied in its sole discretion, no Lot or Development Parcel may be used, established or dedicated as a public street right of way or a private street right of way or driveway, where one of the purposes therefor or results thereof is to provide pedestrian or vehicular access to any property that is not part of the Properties, except for such pedestrian access easements as are shown on recorded plats of the Properties and are established to provide access to Common Property or to Town greenways or greenway easements.

Section 23. Restricted Actions by Owners. No Owner shall do or permit anything to be done or kept within the Properties or on the Common Property which will result in the cancellation of or increase in the cost of any insurance carried by the Association, or which

would be in violation of any Legal Requirement or any rule or regulation established by the Association. No waste shall be committed on the Common Property, except as may be necessary to enable Declarant, a Builder or the Association to exercise any rights reserved to them hereunder or except as may be necessary to enable the Association to perform its functions and provide services under the Declaration. Each Owner shall comply with all Legal Requirements applicable to any part or all of the Properties, including applicable zoning ordinances and building codes.

Section 24. Restrictions on Rental of Dwellings. It is contemplated by the Declaration that all Dwellings generally are intended for use and occupancy by the Owner of the Dwelling. Accordingly, and notwithstanding anything to the contrary herein, the term “residential, recreational or substantially related purposes” as used in Section 1 of this Article specifically prohibits the leasing of any Dwelling (i) for a term (i.e., lease period) greater than 364 days, or (ii) with a term that automatically renews from the initial term to the renewal term.

Provided, however, and notwithstanding the foregoing restrictions on leasing of Dwellings, any model home may be leased to or by a Builder.

Section 25. Sewer Systems. As long as reasonably adequate sanitary sewer service is supplied to a Lot or Development Parcel by the Town, no private sewage system shall be permitted on that Lot or Development Parcel.

Section 26. Signs. No sign shall be displayed to the public view on any portion of the Properties except for signs which are approved by Declarant, during the Declarant Development Period, and thereafter, by the Board or its Architectural Review Committee, with the following exceptions:

- a. Street numbering, the style, size and location of which has been approved by the Architectural Review Committee, maybe affixed to mail receptacles and near the front door of the dwelling;
- b. Discreet signage indicating the existence of a monitored security system, private residence, no soliciting, and Beware of Dog may be displayed so long as they conform to the standards adopted and approved the Architectural Review Committee;
- c. One (1) For Sale sign may be placed by the Owner of any Lot that is for sale by the Owner, so long as it conforms to the standards adopted and approved by the Architectural Review Committee;
- d. No more than two (2) flags may be displayed upon any Lot, so long as the Flag(s) conform to the standards adopted by the Architectural Review Committee;
- e. During Declarant’s Control Period, Declarant and any Affiliate or Builder, with the consent of Declarant, shall have the right to erect and maintain signs within the Common Elements, or on any Lot owned or leased by Declarant or any Affiliate or Builder for the purpose of advertising and promoting the sale of the Properties or the Additional Properties;
- f. Signs required by the Town or a utility provider, whether or not approved by Declarant or the Board; and

- g. Any other purpose approved by Declarant, during the Declarant Control Period, and thereafter, by the Board; provided however, the foregoing limitations shall not restrict or prohibit Declarant (or, at the appropriate time, the Board) or the Town from maintaining on any portion of the Properties signs describing the identity, location, or “for sale” character of the properties, or portion thereof, or signs identifying various phases, sections or sub-divisions of the Properties, or regulatory, street and directional signs.

All signs maintained on any portion of the Properties must comply with all applicable Legal Requirements.

Section 27. Residential Trash Receptacles. No residential trash receptacles shall be visible from the front exterior of the improvements located on the Properties. However, residential trash receptacles may be maintained from the exterior of the improvements located on the Properties if they are located within shrubbery barriers or within structures approved by the Architectural Review Committee that block their visibility from view from the front exterior of the improvements located on the Properties. Residential trash receptacles are to be maintained in a manner so as to prevent order, scavengers, or other offensive detection.

Section 28. Soil Erosion Control. During all periods of construction on any portion of the Properties, the Owner thereof shall maintain proper and adequate soil erosion control to protect other portions of the Properties from accumulated silt and other soil erosion.

Section 29. Tree Cutting. No live trees with a diameter in excess of six (6) inches, measured twelve (12) inches above the ground, nor “flowering trees” (such as dogwood or redbud) or broad leaf evergreens (such as holly, laurel or rhododendron) trees in excess of two (2) inches in diameter, similarly measured, no live vegetation on slopes of greater than twenty percent (20%) gradient or marked “no cut” areas on Approved Plans, may be cut without the prior written approval of the Architectural Review Committee, unless necessary to construct Improvements based on Approved Plans or to prevent injury to Persons or property. Further, no live trees planted by the Declarant or any Builder to comply with applicable Legal Requirements shall be cut without the prior written approval of the Person who planted same. The Board may adopt rules and regulations for cutting of trees to allow for selective clearing or cutting.

Section 30. Utility Yards. One or more utility yards shall be provided for each Lot or groups of Lots (for example, Lots which contain attached townhome Dwellings, Condominium Units), as required by the Architectural Review Committee. A “utility yard” is an area within which one or more of the following is wholly located: pens, yards and houses for pets; above ground garbage and trash cans or receptacles, above ground and exterior air conditioning, heating and other mechanical equipment, meters, transformers and other utility equipment; and all other structures and objects determined by the Architectural Review Committee to be of a similar nature to the foregoing items or determined by the Architectural Review Committee to be of an unsightly nature or appearance. Each utility yard shall be screened or fenced or otherwise enclosed as required by the Architectural Review Committee. Provided, however, nothing in the Declaration shall prohibit location of trash cans, meters, transformers or other equipment in such places as required by the Town or applicable public utility provider.

Section 31. Water Systems. As long as reasonably adequate potable water service is supplied to a Lot or Development Parcel by the Town, no private potable water system shall be permitted on that Lot or Development Parcel. Provided, however, private wells for irrigation purposes may be allowed in accordance with Approved Plans. With respect to private wells, the Owner on whose Lot or Development Parcel any such private well is located shall be indemnify, defend and hold harmless the Association, the Declarant and other Owners of and from any and all claims of damages for injury to person or property, and all other causes of action and legal proceedings (including matters related to environmental hazards), and including the costs of defending against same (including reasonable attorney fees) that arise out of or result from the maintenance of any such private well on such Lot or Development Parcel.

Section 32. Exclusion for Declarant and Builders. Notwithstanding any other provision of the Declaration or any other Governing Documents, during the Declarant Development Period neither the restrictions contained in this Article nor any rules or regulations of the Association with respect to matters addressed in this Article shall apply to any otherwise lawful acts or omissions of Declarant or to any lawful acts or omissions of a Builder in constructing Improvements in accordance with approvals, variances or waivers given by the Declarant, except that Declarant and all Builders at all times shall be subject to the provisions of this Article regarding Soil Erosion Control, Sewer Systems, Tree Cutting and Water Systems.

**ARTICLE XI
ARCHITECTURAL APPROVAL**

Section 1. Architectural Review Committee - Jurisdiction and Purpose. Except for ordinary and routine maintenance to an existing Dwelling or other Improvement on a Lot or Development Parcel, and excluding areas within a Dwelling or other building on a Lot or Development Parcel visible from the exterior only because of the transparency of doors, walls or windows: no site preparation of a Lot or Development Parcel, no change in grade or slope, no construction of any Dwelling or other Improvement or exterior additions or exterior alterations to any Dwelling or other Improvement, and no construction of, or alterations or additions to, the exterior of any other Improvement shall be commenced, nor shall any of the same be placed, altered or allowed to remain, until the “Architectural Review Committee” has approved in writing the Plans therefor. The Architectural Review Committee is established to assure that Improvements are constructed and maintained in a manner that provides for harmony of external design and location in relation to Dwellings and Improvements in the Properties, natural features and topography, that avoids Improvements deleterious to the aesthetic or property values, and that promotes the general welfare of the Owners. Notwithstanding anything to the contrary expressed or implied herein, all Improvements constructed or maintained by Declarant or the Association within the Properties, all portions of the Properties owned by Declarant or the Association, all Common Property and Improvements therein maintained by the Association, and all portions of the Properties owned by the Town or owned by or subject to easements in favor of providers of public utilities, are specifically excluded from the requirements of this Article. The Architectural Review Committee also is established to exercise jurisdiction over other matters specifically assigned to it in the Declaration.

Section 2. Composition and Duration. During the Declarant Development Period, the Architectural Review Committee shall consist of Persons appointed thereto by Declarant who may be Town members, and Declarant may also serve with them on the initial Architectural Review Committee. Declarant has the right at any time and from time to time to remove and replace the Persons appointed by it to the Architectural Review Committee. Following the end of the Declarant Development Period, the Architectural Review Committee shall consist of not less than three (3) members, who shall be appointed by, and shall be subject to removal with or without cause by, the Board. Persons who serve on the Architectural Review Committee are not required to be Members of the Association.

Section 3. Procedure.

(a) Unless otherwise permitted by the Architectural Review Committee in its sole discretion, not less than thirty (30) days prior to the commencement of any construction, alteration, addition, or placement of any Improvement requiring approval by the Architectural Review Committee, Plans for the proposed Improvement shall be submitted to the Architectural Review Committee, in such format and in such numbers or sets (not to exceed three) as the Architectural Review Committee may require. The Architectural Review Committee shall have the right to refuse to approve any Plans for Improvements which are not, in its sole discretion, suitable or desirable for the Properties, including purely aesthetic reasons. Unless a written response is given by the Architectural Review Committee within thirty (30) days following its receipt of the required number of complete sets of Plans and payment by the applicant of any applicable processing fee and consulting fees, if any established by the Architectural Review Committee, the Plans shall be deemed approved. At any time that the Architectural Review Committee consists of more than one individual, decisions of the Architectural Review Committee shall be by majority vote of its members present (in person or by proxy) at a duly called meeting thereof (or by the written consent of a majority of all the members of the Architectural Review Committee). The written response of the Architectural Review Committee may be an approval, a denial of approval, a conditional approval, or a request for additional information. A request for additional information shall be deemed a determination that the information submitted was incomplete or inadequate, and the thirty (30) day time period for further Architectural Review Committee response shall commence only upon receipt of the requested additional information. If conditional approval is granted, and construction, alteration, addition or placement of the Improvement thereafter commences, the conditions imposed shall become fully a part of the Approved Plans. Any material modification or change in the Approved Plans must again be submitted to the Architectural Review Committee for its review in accordance with the foregoing requirements or such other procedures as adopted by the Architectural Review Committee. If the Plans are approved, or conditional approval is given, at least one set of Approved Plans shall be retained by the Architectural Review Committee and at least one set of Approved Plans shall be returned to the applicant. The Architectural Review Committee shall keep such other records of its activities as it is instructed to keep by either the Declarant or the Board, whichever is applicable.

(b) The Declarant or the Board, as applicable, may from time to time adopt procedures for the Architectural Review Committee to conduct the architectural reviews and its other duties, provided that such procedures do not conflict with the specific requirements of the Declaration.

Such procedures may include reasonable fees for processing requests for approval, including the services of an architect or other consultant to assist the Architectural Review Committee in its review of any Plans, the costs of which shall be the responsibility of the applicant, and shall be in addition to any fees due for processing the request for approval. Processing fees shall be payable to the Association at the time the Plans are submitted to the Architectural Review Committee, and the charges of the consultant shall be due and payable immediately to the Association upon its receipt of an invoice therefor. Prior to incurring any consultant charges, the Architectural Review Committee shall afford the applicant a reasonable opportunity either to agree to pay such charges or to withdraw the request for approval. The payment of such fees and costs, as well as other expenses of the Architectural Review Committee required to be paid, shall be deemed to be an individual assessment, enforceable against any applicant in the same manner provided herein for enforcement of annual assessments.

(c) The Declarant or Board, as applicable, at any time and from time to time may establish architectural guidelines for one or more types of Improvements to be constructed, altered, added or placed on any portion of the Properties, which guidelines shall not conflict with the specific terms of the Declaration or any applicable Supplemental Declaration, shall be fair and reasonable, and shall carry forward the spirit and intention of the Declaration. With respect to Improvements other than initial construction of a Dwelling, the architectural guidelines may, but shall not be required to, allow construction, alteration, addition or placement of one or more types of Improvements without submitting the Plans therefor to the Architectural Review Committee and going through the formal approval process provided for herein. Although the Architectural Review Committee shall not have unbridled discretion with respect to taste, design and the standards specified herein or in such guidelines, the Architectural Review Committee shall have broad discretion in considering and approving technological advances or general changes in architectural designs and materials in future years and shall use its best efforts to balance the equities between matters of taste and design and the use of private property.

(d) The Declarant or the Board, as applicable, in its sole discretion, may at any time and from time to time appoint two separate Architectural Approval Committees, one for the purpose of reviewing Plans for initial Improvements, and the other to review Plans for subsequent new Improvements and alterations or additions to existing Improvements, the specific division of authority between such Architectural Approval Committees to be as specified by the Declarant or Board, as applicable. Each such Architectural Approval Committee separately shall be subject to and shall comply with the provisions of the Declaration applicable to the Architectural Approval Committee, including the appointment, removal and replacement of its members and the review of Plans by the Architectural Approval Committee.

(e) Approval by the Architectural Review Committee of any Plans shall not relieve the applicant from any obligation to obtain all required Town approvals and permits, and shall not relieve the applicant of the obligation and responsibility to comply with all applicable Legal Requirements with respect to such Improvements.

(f) Approval of any particular Plans does not waive the right of the Architectural Review Committee to disapprove the same or substantially similar Plans subsequently submitted, nor does such approval relieve an applicant of the requirement to resubmit such Plans for approval in

connection with any portion of the Properties other than the portion for which the Plans were approved.

(g) Notwithstanding anything to the contrary herein, architectural approvals given by the Architectural Review Committee prior to the end of the Declarant Development Period shall remain in effect following the end of the Declarant Development Period. Approved Plans may not be revoked or withdrawn by the Architectural Review Committee without the written consent of the Person who owns the portion of the Properties to which the Approved Plans are applicable.

(h) The Architectural Review Committee shall have the right, but not the obligation, to inspect Improvements that are being constructed or installed on any portion of the Properties to monitor compliance with the provisions of this Article and compliance with the Approved Plans for such Improvements, such right to include entry onto such portion of the Properties at reasonable times to inspect the Improvements. Provided, however, no member of the Architectural Review Committee shall have the right to enter a Dwelling without the consent of an Owner or occupant of such Dwelling.

Section 4: Completion of Construction. Construction of detached Dwellings on Lots shall be completed not later than twelve (12) months immediately after construction is commenced, or by such later date as specified in the Approved Plans, and construction of attached Dwellings and Condominiums Units on Lots or Development Parcels shall be completed not later than eighteen (18) months immediately after construction is commenced, or by such later date as specified in the Approved Plans. For the purposes of this Section, construction is "commenced" when a building permit for the construction has been issued by the Town, and construction is "completed" when the Town has issued a certificate of occupancy or completion, or for the Improvement. The Architectural Review Committee, in its sole discretion, may grant waivers or extensions of the foregoing time period for completion of construction, and, when requested and upon reasonable evidence of the existence thereof, shall grant reasonable waivers or extensions for events of Force Majeure that delay or prevent a Person from completing construction within the foregoing time periods. For such purposes, events of "Force Majeure" are any one or more of the following: acts of God, earthquakes, blizzards, tornadoes, hurricanes, fire, flood, malicious mischief, insurrection, riots, strikes, lockouts, boycotts, picketing, labor disturbances, public enemy, war (declared or undeclared), landslides, explosions, epidemics, compliance with any order, ruling, injunction or decree by any court, tribunal or judicial authority of competent jurisdiction, inability to obtain materials or supplies after the exercise of all reasonable efforts, substantial interference in construction activities resulting from construction activities conducted simultaneously on adjacent lands by or under the direction of unrelated parties, and any other similar circumstances beyond the reasonable control of the Person responsible for such performance.

Section 5. Compensation. No member of the Architectural Review Committee shall be compensated for service on the Architectural Review Committee. However, the Association may reimburse members of the Architectural Review Committee for reasonable out-of-pocket expenses incurred in performing such services.

Section 6. Limitation of Liability. Neither the Architectural Review Committee nor the members thereof, nor Declarant, nor the Association, nor any partners, members, managers, shareholders, officers, directors, employees or agents of Declarant or the Association, shall be liable in damages or otherwise to any Person by reason of: (i) mistake of judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval of Plans, or the failure to approve or disapprove, any Plans, except where the foregoing results from gross negligence or willful misconduct; or (ii) any failure of Approved Plans to comply with any applicable Legal Requirements, including zoning and building codes; or (iii) any defect in any Improvements constructed on any portion of the Properties.

Section 7. Violation; Enforcement. Each failure of an Owner or any other Person to construct or alter any Improvement in accordance with the Approved Plans as required herein therefor shall be a violation of the Declaration. Declarant, each Owner and the Association each shall have the right, but not the obligation, to enforce the provisions of this Section against an Owner or any other Person who violates or attempts to violate same, either to restrain the violation, recover damages, or seek other available legal or equitable remedies. Any failure to enforce this Section of the Declaration or seek any applicable remedy with respect to any specific violation hereof shall not constitute a waiver of the right to do so thereafter, nor shall it constitute a waiver of the right to enforce this Section of the Declaration at any other time with respect to the same or substantially similar matter. All such rights, remedies and privileges granted in this Section are cumulative, and the exercise of any one or more of such rights, remedies or privileges shall not constitute an election of remedies or preclude subsequent exercise of other rights, remedies and privileges.

**ARTICLE XII
EASEMENTS**

Section 1. Easements Reserved by Declarant. Subject to the Communications Easement (as further described in Section 7), Declarant, for itself, and its successors and assigns (which may include the Association, Sub-Associations, the Town and public utility providers), reserves the following easements and rights, which may be exercised by Declarant or its successors or assigns in its sole discretion, without any obligation to exercise any of same. These easements specifically include the right of access to and from the easement area, the right to maintain equipment, structures, facilities and impoundments therein, and the right to remove any obstruction within the easement area that, in the sole discretion of Declarant or its successors or assigns, constitutes interference with the use of the easement or with the maintenance of any equipment or structures or facilities or impoundments located therein:

(a) Perpetual, non-exclusive and alienable easements for maintenance of utilities and related appurtenances and equipment (including wires, poles, pipes, transformer boxes and conduits), storm water drainage equipment and facilities, and soil and water impoundments over, under and across all of the following: (i) portions of the Properties identified as easements on plats recorded in the Registry; (ii) an area on each Lot and Development Parcel that is five (5) feet in width and adjacent to each boundary line of such Lot and Development Parcel; and (iii) the Common Property, including Common Property Easements. Provided, however, neither the foregoing reservation of easement rights nor any similar reservation of easement rights contained

in the Declaration shall create or impose any obligation upon Declarant, or its successors and assigns, to provide or maintain any such utility, equipment, facility, structure or impoundment.

(b) The right to subject the Properties to a contract with Carolina Power And Light Company (or other, appropriate utility provider) for the installation of above ground or underground electric cables and lines and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment by each Owner.

(c) During the Declarant Development Period, for itself and Builders, the right to use the Recreational Amenities at reasonable times, without any charge or payment therefor, for any one or more of the following purposes: (i) the club house, if any, as a sales office, for meetings with Owners, prospective Owners and Builders in connection with the development or sale of portions of the Properties and for meetings of the Association, the Board and Association committees; (ii) to the extent that it does not unreasonably interfere with use of the Recreation Amenities by Class A Members, the Recreational Amenities may be used from time to time by Declarant or Builders for promotional functions in connection with the marketing or sale of any part of the Properties. The foregoing rights include the right to use a reasonable number of parking spaces on the Recreational Amenities and any other Common Property parking areas.

Section 2. Easements Reserved for the Association. Easements are reserved for the Association as follows, which may be exercised by the Association in its sole discretion, without any obligation to exercise any of same. These easements specifically include the right of access to and from the easement area, the right to maintain equipment, structures, facilities and impoundments therein, and the right to remove any obstruction within the easement area that, in the Association's sole discretion, constitutes interference with the use of the easement or with the maintenance of any equipment or structures or facilities or impoundments located therein:

(a) A perpetual, non-exclusive and alienable easement over and upon all portions of the Properties to enable the Association to perform its functions and provide the services under the Declaration. Provided, however that any such entry by the Association upon any portion of the Properties shall be made with as minimum inconvenience to the Owner of such portion of the Properties as reasonably practicable, this easement does not include a right to enter any Dwelling or other building on a Lot or Development Parcel without the consent of an Owner of that portion of the Properties, and any damage caused by or resulting from the gross negligence or willful misconduct of the Association's employees, contractors or agents shall be repaired by the Association at the expense of the Association.

(b) In addition to the foregoing, and in order to implement effective and adequate soil erosion controls and/or storm water management, a perpetual, non-exclusive easement to enter upon any portion of the Properties, before and after Improvements have been constructed or placed thereon, to maintain or cause to be maintained soil erosion control and/or storm water management; provided, however, the Association shall not at any time be required to exercise this easement, and no exercise of the easement shall interfere with any permanent Improvements constructed on any such portion of the Properties (which Improvements have been approved by the Architectural Review Committee as required herein). If the need for storm water management or soil erosion controls results from the construction of Improvements on any

portion of the Properties or any excavation, grading, removal, reduction, addition or clearing of any portion of the Properties, the cost of any such work performed by the Association for the purpose of implementing effective and adequate storm water management or soil erosion control shall be assessed against the Owner of such the portion of the Properties on which such work has been performed, and shall be a lien and be enforceable in the same manner as annual assessments. Provided, however, if the Association determines that appropriate corrective action is necessary on any portion of the Properties, prior to exercising this easement the Association shall give the Owner of such portion of the Properties written notice of the proposed corrective action and a reasonable opportunity to take the corrective action specified in such notice. If such Owner fails to complete the corrective action by the date specified in the notice, the Association may then exercise this easement.

Section 3. Easement Reserved for the Town and Public Utilities. Perpetual, non-exclusive and alienable easements are hereby reserved and established over all portions of the Properties for the Town and for all public utility providers serving the Properties, and their agents, employees and contractors, for the purpose of setting, removing and reading utility meters, maintaining utility or storm water drainage equipment and connections, and acting for other purposes consistent with the public safety and welfare, including garbage removal, police protection, fire protection and delivery of mail. Except in an emergency, these easements shall be exercised in a reasonable manner and at reasonable times. This easement does not include a right to enter any Dwelling or other building on any portion of the Properties without the consent of the Owner of such portion of the Properties. Any pedestrian access easement established by Declarant or the Association over any portion of the Properties for the purpose of providing pedestrian access to and from Town greenways or Town greenway easements are established for the benefit of the Town of Apex, its employees and the public in general, and the Association has the responsibility with respect to such pedestrian access easements that Legal Requirements of the Town of Apex UDO impose on owners of properties over which such pedestrian access easements are located and on property owner associations that serve properties over which such pedestrian access easements are located.

Section 4. Easements Shown On Recorded Plats. Declarant, for itself and its successors and assigns (which may include the Association, Sub-Associations, the Town and public utility providers), and in addition to all other easements reserved in the Declaration, hereby reserves perpetual, non-exclusive and alienable easements in the locations and for the purposes shown and indicated on all plats of the Properties recorded in the Registry. These easements specifically include the right of ingress, egress and regress over and upon such easement areas, and the right to maintain in the easement areas identified on such plats all improvements deemed necessary, in the reasonable discretion of the Person who exercises the easement rights, for the full exercise of such easements. The Persons who have the foregoing easement rights shall have no obligation to exercise any part or all of same.

Section 5. Easement for Encroachments. If, in accordance with Approved Plans, any Dwelling is closer than five (5) feet to any boundary line of the Lot on which the Dwelling is located (for the purposes of this Section, the "subject Lot"), then as provided by Section 1 O-3073(b)(8) if the Town of Apex UDO the Owner of the Dwelling, and such Owner's tenants and contractors, shall have a perpetual, non-exclusive access easement over the Lot or other portion

of the Properties that adjoins such boundary line of the subject Lot as reasonably necessary from time to time to facilitate maintenance of the Dwelling on the subject Lot. All such maintenance shall be done expeditiously and the exercise of this easement shall in all respects be reasonable and, upon completion of the maintenance, the Owner of the subject Lot shall restore the Lot or other portion of the Properties on which the easement has been exercised to as nearly the same condition as it was in prior to the maintenance as reasonably practicable. When the foregoing easement exists, no fence, wall, storage shed, or similar structure or any other kind of obstruction to the exercise of the easement shall be permitted on the adjoining Lot or other portion of the Properties (as a guideline, the area on the adjoining Lot or other portion of the Properties within five (5) feet of the common boundary line of the adjoining Lot or other portion of the Properties and the subject Lot shall be left free of all such obstructions, but it is the responsibility of the Owner of the adjoining Lot or other portion of the Properties to comply with the applicable provision of the Town of Apex UDO). Provided, however, the easement established by this Section shall not restrict or impair any easements established herein in favor of the Declarant, the Association or any public utility provider.

Section 6. Restriction on Easements. Notwithstanding anything to the contrary contained in this Article, no easement granted, reserved or established in the Declaration shall be construed to give Declarant, the Association, the Town or any other Person the right to enter any Dwelling or other building located on any Lot.

Section 7. Communications Easement. In order to make available to Owners state of the art Infrastructure and Telecommunication Services (as further defined in Article XIX of this Declaration), an exclusive easement (the “**Communication Easement**”) over the Property (inclusive of Common Areas, Common Property, Common Streets and Roads, and Neighborhood Common Area now existing or hereafter created) has been granted to an infrastructure facilities provider (“**IFP**”) and will be made available as necessary to service providers designated by the IFP for the provision of Telecommunication Services.

Section 8. Telecommunication Services. Subject to the rights of grantee under the Communications Easement and the rights granted to the infrastructure facilities provider as set forth in Section 17 of Article XIX Declarant reserves for itself, and its successors and assigns, an exclusive easement for the installation, maintenance and supply of radio, telephone and television cables as well as any other equipment and infrastructure for the provision of cable television, high speed internet/intranet, local and long distance telephone services, security monitoring services and/or other telecommunication services within the rights of way and easement areas depicted upon any plat of any portion of the Property or within any easement reserved by this Declaration.

Section 9. Maintenance Easements. A “Maintenance Easement” shall be established upon all Lots shown and depicted on a Plat that contain a point on an interior lot line designated as a “Maintenance Easement Point”. Said Maintenance Easement shall extend from said Maintenance Easement Point along a line parallel with the right-of-way line or parallel with the chord bearing of the arc of the street upon which said Lot fronts to the foundation of a residence constructed nearer to said Maintenance Easement Point, thence, with said foundation wall, and

extending beyond said foundation wall to the rear lot line of the Lot, thence, with the rear lot line to the interior lot line, thence with said interior lot line, back to the Maintenance Easement Point.

The Maintenance Easements established hereby shall be perpetual and shall be for the benefit of the Owner of the Lot adjacent to said easement for ingress, egress and regress over and upon said easement and for the purposes of making landscape and hardscape improvements thereupon as may be approved by the Declarant or Association, as the case may be. Any improvement placed upon the Maintenance Easement shall be upon the express condition that said improvements must not be attached to any structures on the servient Lot nor made in such a manner as to cause damage to the property of the Owner of the servient Lot and must not be located in such a manner so as to prevent the Owner of the servient Lot from having unimpeded access to the structure(s) upon its Lot for purposes of maintenance and repair. Further, said improvements must be maintained by the party making said improvements. In the event the Owner of the dominant Lot fences in the Maintenance Easement area, a gate must be erected along the rear Lot line of the Owner of the servient Lot for access purposes.

Section 10. Easement for Repair and Maintenance. For the benefit of each Lot created by this subdivision Plat, perpetual maintenance and repair easements are hereby established upon adjacent Lots and tracts along all side Lot lines that are adjacent to another Lot for the purposes of cross access for maintenance and repair including the rights of ingress, egress and regress over and upon said easements. The maintenance and repair easements shall also be provided for in the restrictive covenants applicable to this subdivision plat.

**ARTICLE XIII
OWNER AND SUB-ASSOCIATION MAINTENANCE RESPONSIBILITIES**

Section 1. Duty to Maintain. Subject to any other applicable terms of the Declaration, each Owner, at such Owner's sole cost and expense, and each Sub-Association, at such Sub-Association's sole costs and expense, shall maintain such Owner's Parcel, or such Sub-Association's Sub-Association Common Property, as the case may be, including all Improvements thereon, in a safe, clean and attractive condition at all times, including all of the following:

- (a) Prompt removal of all litter, trash, refuse and wastes.
- (b) Lawn mowing and maintenance on a regular basis, including, subject to any applicable Legal Requirements, any portions of a publicly dedicated street right of way or private street right of way adjacent to any boundary of such portion of the Properties and not maintained by the Association or the Town.
- (c) Tree and shrub pruning and removal of dead or diseased trees, shrubs and other plant material.
- (d) Maintenance of flower and plant gardens.
- (e) Maintenance of exterior lighting and mechanical facilities.

- (f) Maintenance of parking areas and driveways.
- (g) Complying with all applicable Legal Requirements.
- (h) Soil erosion control as required by the Declaration.
- (i) Maintenance of storm water drainage easements and portions of the Properties served by storm water drainage easements, as required by the Declaration.
- (j) To the extent not adequately maintained by the Town, the Association or a public utility provider, maintenance of the sidewalk, driveway, driveway apron and utility laterals serving each such portion of the Properties, even if located in the Common Property. Each Owner and Sub- Association also shall provide snow and ice removal for any sidewalks located adjacent to such Owner's or Sub-Association's portion of the Properties, to the extent that it is not promptly and adequately provided by the Town.

Except as set forth above, each Owner shall also be liable and responsible for maintenance, repair and replacement, as the case may be, of such Owner's Lot and the dwelling constructed thereon in a good and sightly condition consistent with the other Lots and dwellings within the Properties, including, without limitation, as follows: repair, replace and care of structural elements, glass surfaces, window and door screens, storm doors, air conditioning and heating equipment and all other equipment required to provide water, light, power, telephone, sewage and sanitary service to the Lot which are not publicly maintained and serve only that Lot whether located on the Lot or the Common Elements. In addition, with respect to maintaining, repairing and replacing, as the case may be, each Owner shall be solely responsible for maintaining its Lot, Dwelling, Property, driveway (from garage to paved alley), mailbox, landscaping, and any of the like, inside its recorded Lot lines, and all related easements and right of ways within said Owner's Lot with the exception of public sidewalks, whether or not any wear and tear or damage caused therein was the result of any negligence by Owner, Association and/or any third party.

Out of abundance of extreme caution, and to ensure the delegation of such maintenance rights are accurately set forth in this Declaration, see the Owners and Associations Maintenance Responsibilities Chart attached and incorporated hereto as Schedule XIII.

The foregoing responsibilities shall be performed in a manner that does not unreasonably disturb or interfere with the reasonable enjoyment of the Properties by Persons entitled thereto. Provided, however, and notwithstanding anything to the contrary appearing herein, Declarant is exempt from the provisions of this Article regarding Owner Maintenance Responsibilities with respect to all portions of the Properties it owns.

Section 2. Enforcement. If any Owner or Sub-Association fails to perform any of the foregoing maintenance Responsibilities, then the Association may give such Person written notice of the failure and such Person must, within ten (10) days after such notice is given by the Association, perform the required maintenance. If any such Person fails to perform the required

maintenance within the allotted time period, then the Association, acting through its authorized agent or agents, shall have the right and power, but not the obligation, to enter such Person's portion of the Properties and perform such maintenance without any liability for damages for wrongful entry or trespass. Such Person shall be liable to the Association for the expenses incurred by the Association in performing the required maintenance, and shall reimburse the Association for such expenses within thirty (30) days after the Association mails or delivers to such Person an invoice therefor. If any Owner or Sub-Association fails to reimburse the Association as required, the Association shall have the same rights and remedies against such Owner or Sub-Association and such Owner's or Sub-Association's portion of the Properties, as the Association has with respect to the enforcement and collection of annual assessments.

Section 3. Unimproved Portions of the Properties. Notwithstanding the foregoing provisions of this Article, but subject to the other applicable provisions of the Declaration, Owners of unimproved Lots or other portions of the Properties shall be required to maintain same only in accordance with such maintenance standards, if any, as are established by the Declarant, during the Declarant Control Period, and thereafter, in accordance with such reasonable maintenance standards established by the Board.

**ARTICLE XIV
MORTGAGEES**

Section 1. Notice to Board. Upon request from the Board, any Owner who mortgages such Owner's Lot shall notify the Association of the name and address of the Mortgagee. No Mortgagee shall be entitled to any Mortgagee rights under the Declaration unless such Mortgagee has notified the Association as required in this Article and has requested Mortgagee rights under the Declaration.

Section 2. Requirements of Mortgagee. Whenever any Mortgagee desires to avail itself of the rights afforded Mortgagees under the Declaration and receive notices from the Association, it shall furnish written notice thereof to the Association by CERTIFIED OR REGISTERED MAIL, identifying the Lot upon which such Mortgagee holds a first lien mortgage or deed of trust, specifying which rights it wishes to exercise and notices or other information it wishes to receive, and designating the name of the person and mailing address to which notices, reports or information are to be sent by the Association. The Mortgagee shall be responsible for updating the information required by this Section.

Section 3. Obligation of Association to Mortgagees. Any Mortgagee who has notified the Association as required in the immediately preceding Section of this Article, shall have each of the following rights that are specifically requested in the notice to the Association:

- (a) To inspect Association documents and records on the same terms as the Members of the Association.
- (b) To be notified of any proposed amendments to the Declaration and any meetings of the Association at which such proposed amendments are to be voted on.

(c) To be notified of any condemnation or casualty loss affecting the Common Property or any portion thereof.

(d) To be notified of any event giving rise to a claim under the Association's physical damage insurance policy insuring the Common Property, where the damage to the improvements on the Common Property exceeds an amount equal to ten percent (10%) of the Association's annual budget for Common Expenses.

(e) To be notified of any lapse, cancellation or material modification of any insurance policy maintained by the Association.

(f) To be notified of any delinquency in the payment of any assessment or charge (which delinquency remains uncured for a period of sixty (60) days), and to be notified of any other default of the provisions of the Declaration, by the Owner of the Lot upon which the Mortgagee has a mortgage. Provided, however, any failure of the Association to notify the Mortgagee of the delinquency or default shall not affect the validity of any Association lien, or any other Association rights and remedies, against the defaulting Owner or such Owner's Lot.

(g) Following the end of the Declarant Control Period, the right of a majority of all the Mortgagees (including those who have notified and who have not notified the Association) to demand professional management of the Association.

(h) Following the end of the Declarant Control Period, the right of a majority of all the Mortgagees (including those who have notified and who have not notified the Association) to demand an audit of the Association's financial records, not to exceed one audit per calendar year.

Section 4. Mortgagees Not Obligated to Collect Assessments. No Mortgagee shall have any obligation to collect any assessment under the Declaration.

**ARTICLE XV
AMENDMENT OF DECLARATION**

Section 1. Amendment by Declarant. During the Declarant Development Period Declarant may, without the approval or joinder of the Association, or any Member of the Association, Mortgagee or Secondary Mortgage Market Agency, amend any provision of the Declaration or any Supplemental Declaration from time to time to: (i) make non-material, clarifying or corrective changes not materially, adversely affecting any Owner's rights or obligations hereunder; or (ii) satisfy' the requirements of FHA (Federal Housing Administration), VA (Veterans Administration), Fannie Mae (Federal National Mortgage Administration), Office of Interstate Land Sales Registration of the Department of Housing and Urban Development (OILSR) or other governmental agency Secondary Mortgage Market Agency or Mortgagee; or (iii) establish or maintain the tax exempt status of the Association under the laws of the United States or the State of North Carolina. Any such amendment shall be effective upon the later of the date of its recording in the Registry or the effective date specified therein. Provided, however, during the Declarant Control Period any such amendment of the Declaration also shall require approval by the HUD or its designee and/or by the VA or its

designee unless, at the time of such amendment, applicable HUD or VA regulations no longer require such approval.

Section 2. Amendment by the Members. Unless amended as allowed under Section 1 of this Article, the Declaration may be amended only as follows:

(a) Unless a higher percentage or different voting requirement is specified herein or by applicable Legal Requirements, the Declaration may be amended only by (i) the written agreement or consent of those Class A Members who have, or the affirmative vote at a duly called meeting of the Association of those Class A Members who have, sixty-seven percent (67%) or more of the total number of votes allocated to the Class A Members, and (ii) during the Declarant Development Period, with the written consent of Declarant.

(b) Written notice of an annual or special meeting of the Association at which any proposed amendment to the Declaration is to be voted on, together with at least a summary description of the proposed amendment, shall be given to all Members not less than ten (10) days nor more than sixty (60) days in advance of the date of such meeting.

(c) When any amendment to the Declaration is approved by Members of the Association (and Declarant, when applicable) as provided in this Section, the appropriate officers of the Association (and Declarant, when applicable) shall execute in the same manner as a deed and record in the Registry, a document setting forth the amendment, the effective date of the amendment (if no effective date is stated the amendment shall be effective upon the recording of same in the Registry), the date of the meeting of the Association at which such amendment was adopted, the date that notice of such meeting was given, the total number of votes required to constitute a quorum at such meeting, the total number of votes present at such meeting, the total number of votes necessary to adopt the amendment, the total number of votes cast in favor of such amendment and the total number of votes cast against the amendment. The document shall be recorded in the Registry within thirty (30) days following the date of the meeting at which the amendment was adopted. Provided, however, and notwithstanding the foregoing or anything to the contrary appearing herein, no amendment to the Declaration duly adopted by the Members of the Association shall be void or invalid solely because the document describing the amendment is not recorded in the Registry within said thirty (30) day period, and any such duly adopted amendment to the Declaration recorded following the end of said thirty (30) day period shall become effective on the later of the effective date specified therein, if any, or on the date it is recorded in the Registry.

(d) Amendment of Supplemental Declarations shall be governed by the provisions for amendment contained therein, if any; otherwise, the provisions of regarding amendment of the Declaration shall apply.

(e) In addition to the foregoing requirements, during the Declarant Control Period any such amendment to the Declaration also shall require approval by the HUD or its designee and/or by the VA or its designee unless, at the time of such amendment, applicable HUD or VA regulations no longer require such approval.

(f) Any amendment to this Declaration which alters any provision relating to the Telecommunication Services or the Telecommunication Assessments must have the prior written approval of the Declarant and the IFP.

Section 3. Prohibited Effects of Amendment. No amendment to the Declaration shall do or result in any of the following:

- (a) increase the financial obligations of an Owner in a discriminatory manner.
- (b) further restrict development on any portion of the Properties in a discriminatory manner.
- (c) diminish or impair the rights of Declarant without the written consent of Declarant.
- (d) impose additional obligations upon Declarant without the written consent of Declarant.
- (e) diminish or impair the express rights of the Mortgagees under the Declaration without the prior written approval of a majority of the Mortgagees. Except as specifically provided in the Declaration, no provision of the Declaration shall be construed to grant to any Owner or to any other Person any priority over any rights of Mortgagees.
- (f) terminate or revise any easement established by the Declaration, without the written consent of the Person benefited by the easement or by the Owner of the portion of the Properties benefited by the easement, whichever is applicable.
- (g) alter or remove any applicable Legal Requirement.

ARTICLE XVI
DURATION OF DECLARATION; DISSOLUTION OF ASSOCIATION

Section 1. Duration. Unless sooner terminated as required by applicable Legal Requirements, the Declaration shall run with and bind the Properties and each Owner, and shall inure to the benefit of the Association, and each other Owner of any portion of the Properties, and their respective heirs, successors, and assigns, from and after the recording of the Declaration in the Registry until such time as it is terminated by a written termination agreement, executed or ratified in the same manner as a deed, as follows: (i) during the Declarant Development Period, executed or ratified by Declarant and by those Members to whom eighty percent (80%) or more of the Class A votes in the Association are allocated; and (ii) following the end of the Declarant Control Period, executed or ratified by those Members to whom eighty percent (80%) or more of the total votes in the Association are allocated. Execution or ratification by any one of multiple Owners of a Parcel is sufficient for that Parcel unless, prior to the time the termination agreement is recorded in the Registry, any other Owner of that Parcel files with the Association a written objection to the termination of the Declaration (in which event the vote allocated to that Parcel shall be considered as not having been exercised). The termination agreement shall specify a date after which it will be void unless it is recorded in the

Registry before that date. The termination agreement may not be recorded in the Registry unless and until the requisite number of signatures have been obtained as provided herein, and it shall be effective only upon recording. If, pursuant to the termination agreement, any real estate in the Properties is to be sold following termination of the Declaration, the minimum terms of the sale shall be set forth therein.

Section 2. Dissolution of the Association. The Association shall be dissolved upon the termination of the Declaration. Provided, however, until any sale of the Common Property authorized by the termination agreement or approved by the Owners in the same manner as required for approval of the termination agreement is completed and the sale proceeds distributed, the Association shall continue in existence with all of the powers it had before termination. The Association, on behalf of the Owners, may contract for the sale of the Common Property, but the contract is not binding unless such sale has been authorized in the termination agreement or it has been approved by the Owners in the same manner as required for approval of the termination agreement. Proceeds of the sale of Common Property shall be distributed to the Owners and lienholders as their interests may appear, as provided in the termination agreement or other agreement approved by the Owners in the same manner as required for approval of the termination agreement. If the Common Property is not to be sold following termination of the Declaration, title to the Common Property vests in the Owners upon termination, as tenants in common in proportion to their respective interests as provided in the termination agreement.

Upon dissolution of the Association or upon loss of ownership of all of the Common Property by the Association for any reason whatsoever (except for exchange or dedication or conveyance of any part or all of the Common Property as allowed by the Declaration, or by reason of merger and/or consolidation with any other association as allowed by the Declaration), except as otherwise provided in the termination agreement, other agreement approved by the Owners in the same manner as required for approval of the termination agreement, or applicable Legal Requirements (in particular, section 47F-2-118 of the Act, or any successor section of the Act), any portion of the Common Property not under the jurisdiction of and being maintained by another association substantially similar to the Association, together with all other assets of the Association, first shall be offered to the Town of Apex, North Carolina (or, if the Town of Apex refuses such offer, then to some other appropriate governmental entity or public agency as determined by the Board) to be dedicated for public use for purposes similar to those to which the Common Property and such assets were required to be devoted by the Association. If the Town of Apex or such other appropriate governmental entity or public agency accepts the offer of dedication, such portion of the Common Property and assets shall be conveyed by the Association to the Town of Apex or such other appropriate governmental entity or public agency, subject to the superior right of an Owner to an easement (if necessary) for reasonable ingress and egress to and from such Owner's Parcel and the public or private street(s) on which that Parcel is located, subject to all other applicable rights of way and easements, and subject to ad valorem property taxes subsequent to the date of such conveyance.

If the Town of Apex or such other appropriate governmental entity or public agency refuses the offer of dedication and conveyance, the Association may transfer and convey such Common Property and assets to any nonprofit corporation, association, trust or other entity which is or shall be devoted to purposes and uses that would most nearly conform to the

purposes and uses to which the Common Property was required to be devoted by the Declaration, such transfer and conveyance to be made subject to the rights of Owners and the other matters set forth in the immediately preceding paragraph of this Section. If there is no nonprofit corporation, association, trust or other entity who will accept such transfer and conveyance of the Common Property and assets of the Association, then such Common Property and assets shall be distributed as provided in the plan of termination/dissolution adopted by the Association.

Section 3. Termination or Dissolution During Declarant Control Period. In addition to the foregoing requirements, during the Declarant Control Period any termination of the Declaration or dissolution of the Association also shall require approval by the HUD or its designee and/or by the VA or its designee unless, at the time of such termination or dissolution, applicable HUD or VA regulations no longer require such approval.

**ARTICLE XVII
TOWN OF APEX REQUIREMENTS**

Section 1. Applicability. Certain provisions of the Apex Town Code apply to part or all of the Properties. The Declaration is subject to and shall be construed in accordance with all applicable provisions of the Town of Apex UDO, including all sections thereof previously described or referenced herein, and including all other applicable sections not referenced. It shall be the responsibility of each Owner of any portion of the Properties subject to any provisions of the Town of Apex UDO to comply with all provisions thereof applicable to such portion of the Properties, whether or not any approval, disapproval, waiver or variance of the terms of the Declaration has been given by the Declarant, the Board or the Architectural Approval Committee with respect to such portion of the Properties.

Section 2. Greenways. Notwithstanding any other provision of the Declaration, it is understood and agreed that, within any greenway in or adjoining the Properties, the Association shall own and maintain any erected trails and trail markers, place or erect litter receptacles and other convenience facilities, maintain and adopt and amend regulations concerning the use of the greenway (including, without limitation, hours of operation and use), which rules and regulations shall be equally applicable to the general public and the Owners. The Association and the Owners may adopt such other regulations governing the use of the greenway to ensure the maintenance and upkeep of the greenway in its natural or improved state, free of litter and unsightly debris.

**ARTICLE XIX
GENERAL PROVISIONS**

Section 1. Enforcement. The Association, each Owner, and, when enforcement rights are granted by the Declaration, a Mortgagee, the VA or FHA, shall have the right, but not the obligation, to enforce the Declaration by any proceeding at law or in equity (or otherwise, as provided in the Declaration) against any Person who has violated, is violating, or is attempting to violate, any part of the Declaration, either to restrain the violation, recover damages, or seek other available legal or equitable remedies. Any failure by the Association, an Owner, or any

other Person to enforce the Declaration or seek any applicable remedy with respect to any specific violation or lien shall not constitute a waiver of the right to do so thereafter, nor shall it constitute a waiver of the right to enforce the Declaration at any other time with respect to the same or substantially similar matter. All rights, remedies and privileges granted to the Association, any Owner, or any other Person herein are cumulative, and the exercise of any one or more of such rights, remedies or privileges shall not constitute an election of remedies or preclude subsequent exercise of other rights, remedies and privileges.

The Declarant and the IFP (as defined in Section 17) shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the installation of Infrastructure, the provision of Telecommunication Services (as defined in Section 17) and assessments related thereto, and it shall be the Association's responsibility to assist the Declarant and the IFP, or both, in any such enforcement proceedings.

Section 2. Severability of Provisions. If any paragraph, section, sentence, clause or phrase of the Declaration shall be or become illegal, null or void for any reason or shall be held by any court of competent and final jurisdiction to be illegal, null or void, the remaining paragraphs, sections, sentences, clauses and phrases of the Declaration shall continue in full force and effect and shall not be affected thereby. To the extent that any provision of the Governing Documents is determined to be overly broad or unenforceable and a narrower or partially enforceable construction may be given to such provision without destroying its intent, then the narrower or partially enforceable provision shall be applied and, to the extent lawful, shall be enforced. It is hereby declared that said remaining paragraphs, sections, sentences, clauses and phrases would have been and are imposed irrespective of the fact that any one or more other paragraphs, sections, sentences, clauses or phrases shall become or be illegal, null or void.

Section 3. Notice. Except as otherwise provided herein, whenever written notice to an Owner is required hereunder, such notice may be hand delivered to such Owner, or given by first class United States mail, postage prepaid, or given in such other manner specifically allowed or required by applicable Legal Requirements, or given in such other manner determined by the Board to be proper and which does not violate any applicable Legal Requirements, addressed to the address of such Owner appearing on the records of the Association or to the address for such Owner appearing in the records of the Wake County Revenue Department. Properly addressed notice shall be deemed to have been given by the Association as follows: (i) on the third day following the date the notice was deposited in the United States mail, first class postage prepaid; or (ii) on the date of personal delivery to the Owner or an adult residing with the Owner, as evidenced by a receipt signed by the Owner or such other Person; or (iii) on the delivery date indicated on a return certified or registered mail receipt, or (iv) on the date indicated by the records of a national, regional or local same day or overnight courier service, or (v) on the date acknowledged in writing by the recipient Owner or other adult residing with such Owner, or (vi) upon execution of a written waiver of such notice by the Owner. Notice to the Association may be given and shall be deemed to have been given in the same manner as notice to an Owner, when addressed to the principal business office of the Association or the property manager employed by the Association. It shall be the duty of each Owner to keep the Association informed of such Owner's current mailing address and telephone number. If an Owner has not

provided the Association with the Owner's current mailing address the Association may use as the mailing address the street address of the Parcel owned by such Owner or the address for such Owner in the records of the Wake County Revenue Department. If no address for an Owner is reasonably available to the Association, the Association shall not be required to give notice to such Owner. Notice given to any one of multiple Owners of any portion of the Properties shall be deemed to have been given to all of such Owners.

Section 4. Titles. The titles, headings and captions which have been used throughout the Declaration are for convenience only and are not to be used in construing the Declaration or any part thereof, except as necessary with respect to any cross-referencing of any provisions of the Declaration.

Section 5. Number and Gender. Whenever the context of the Declaration requires, the singular shall include the plural and one gender shall include all.

Section 6. No Exemption. No Owner may become exempt from any obligations imposed hereby by non-use or abandonment of the Common Property or any Parcel owned by such Owner.

Section 7. Subdivision, Combination of Lots; Plat Re-recording. A Parcel may be subdivided, and the boundaries of a Parcel may be altered, only with the written consent of the Owner thereof and the Declarant, during the Declarant Development Period (and, thereafter, the Board), and with any prior approval required of the Mortgagees and the Town. Provided, however, and notwithstanding the foregoing sentence, such consent is not required for leases, deeds of correction, deeds to resolve boundary line disputes or similar corrective instruments, or deeds or other instruments granting any easement, right-of-way or license to Declarant, the Association, the Town or a public utility provider. One or more Parcels may be combined into a single Parcel with the written consent of the Owner thereof and the Declarant, during the Declarant Development Period (and thereafter, the Board), and the resulting Parcel shall be considered as one Parcel for the purposes of the Declaration. Nothing contained herein shall prohibit or restrict the right of Declarant, during the Declarant Control Period to subdivide, combine, re-subdivide or recombine portions of the Properties, or to record or re-record maps relating to, any portion of the Properties owned by Declarant, nor to prohibit or restrict the right of Declarant to approve or disapprove such activities with respect to portions of the Properties owned by other Owners.

Section 8. Changes in Planned Development Plan for PUD-CZ (or PD Plan). The provisions of this Section apply to any part or all of PD PLAN for PUD-CZ Trackside Development Apex, North Carolina, dated March 16, 2007, as approved by the Town of Apex as a planned development, as those terms are defined in the Apex Town Code. Therefore, although a Parcel within the Community may appear to contain enough land area to permit construction of additional Dwelling Units or to create additional Parcels, prior approved density transfers within the cluster unit development may, in fact, preclude Town approval of additional Dwelling Units or creation of additional Parcels. During the Declarant Development Period, without the written consent of the Declarant (and, if required, by the Town of Apex), no Parcel may be subdivided by sale or otherwise so as to reduce the total land area shown on the recorded plats of the real property of OMV.

With the approval of the Town of Apex, and subject to such terms and conditions as the Town or Apex may impose, during the Declarant Control Period Declarant shall have the right, without consent or approval of the Owners, to create additional Dwelling Units or Parcels, add Common Property, and make density transfers among various Parcels.

Section 9. Association Contracts and Leases During Declarant Control Period. With the exception of contracts for the provision of Telecommunications Services as provided in Section 17 of Article XII, and the assessments related thereto, all Association contracts and leases made during the Declarant Control Period which extend beyond the Declarant Control Period must meet at least one of the following criteria: (i) be for a term limited to two years or less; (ii) be terminable without penalty by the Association upon ninety (90) days written notice; (iii) be commercially reasonable and made with an entity not affiliated with Declarant; or (iv) be approved by the HUD or its designee or by the VA or its designee. Any Association contract or lease entered into before the first Board elected by the Class A Members takes office, and which is not bona fide or which was unconscionable to the Owners at the time entered into under the circumstances then prevailing, may be terminated without penalty by the Association at any time after the first Board elected by the Class A Members takes office, upon not less than ninety (90) days' notice to the other parties to the contract or lease.

Section 10. Conflicts. Whenever there exists a conflict among the Governing Documents of the Association, the provisions of the Declaration and thereafter, any applicable Supplemental Declaration shall control, except as to matters of compliance with the Nonprofit Corporation Act, in which event the Articles shall control. Whenever there is a conflict between the provisions of the Articles and Bylaws, the provisions of the Articles shall control. With respect to the foregoing, specific provisions shall control general provisions, except that a construction consistent with the Act, the Nonprofit Corporation Act and the Apex Town Code shall in all cases control over any construction inconsistent therewith. The provisions of the Act and Nonprofit Corporation Act shall in all cases control over any conflicting provisions of the Apex Town Code. The provisions of the Bylaws shall control over any conflicting provision of any rule, regulation or other resolution adopted by the Association. The Governing Documents shall be construed together and shall be deemed to incorporate one another in full.

Section 11. Assignment. Declarant specifically reserves the right, in Declarant's sole discretion, at any time and from time to time, to temporarily or permanently assign any or all of its rights, privileges and powers under the Declaration or under any Supplemental Declaration.

Section 12. Costs and Reasonable Attorneys' Fees. In any action to enforce the provisions of any Governing Documents, the court may award reasonable attorneys' fees to the prevailing party, even if such action is settled prior to any trial, judgment or appeal. It is the specific intent of this Section that it constitutes the allowance of the award of reasonable attorneys' fees as required under Section 47F-3-120 of the Act.

Section 13. Rule Against Perpetuities. As provided in Section 47F-2- 103(b) of the Act, the rule against perpetuities may not be applied to defeat any provision of the Declaration, or the Bylaws, rules, or regulations adopted pursuant to Section 47F-3-102(l) of the Act. In the event of

the absence of the protection of Section 47F-2-103(b) of the Act, if any provision of the Declaration violates any applicable Rule Against Perpetuities, such provisions shall be deemed reformed to continue in effect for the maximum period of time that such provision could exist without violating such applicable Rule Against Perpetuities.

Section 14. Reserved Rights. Whenever the Declaration reserves a right for, or requires or authorizes a consent, approval, variance or waiver by, Declarant during the Declarant Development Period, and thereafter confers such right upon, or requires or authorizes such approval or waiver by, the Board, the applicable right may be exercised, or the applicable approval or variance or waiver may be given, only by Declarant (or its assigns, which may include the Board) during the Declarant Development Period, and, thereafter, only by the Board or its authorized designee.

Section 15. Legal Requirements. All Governing Documents shall be subject to and construed in accordance with all applicable Legal Requirements, including all applicable provisions of the Town of Apex UDO. It shall be the responsibility of each Owner to comply with all applicable Legal Requirements, whether or not any approval, disapproval, waiver or variance of the terms of any Governing Documents has been given by Declarant, the Association or the Architectural Review Committee. It is the express intention of the Governing Documents to comply with the Act, and any provisions of the Governing Documents that are not in compliance with the Act shall be deemed reformed from time to time to comply therewith. Provided, however, it also is the intention of the Governing Documents that, unless its provisions violate the Act, such provisions shall control, and, insofar as reasonably possible, the provisions of the Governing Documents shall be construed in such manner as to be consistent with, and not in violation of, the Act.

Section 16. Marketable Title Act. It is the intention of the Declarant that the Declaration exist and continue until terminated as provided herein, and that it constitute an exception to any automatic termination or expiration provision that might be applicable under the Real Property Marketable Title Act as contained in Chapter 47B of the North Carolina General Statutes, or under any successor or replacement statute or any other Legal Requirement that would or could terminate the Declaration other than in the manner provided for termination herein. Accordingly, the Association, in its discretion, may at any time and from time to time, re-record in the Registry the Declaration or some memorandum or other notice hereof in order to continue the Declaration in full force and effect and/or to qualify the Declaration as an exception to any such automatic termination or expiration provision of the Real Property Marketable Title Act or any other Legal Requirement.

Section 17. Telecommunication Service. Declarant has entered into an agreement with an infrastructure facilities provider (“IFP”) for the installation within Villages of Apex of facilities and equipment (the “Infrastructure”) to provide cable television, high speed internet/intranet, local and long distance telephone services, security monitoring services and/or other telecommunication services (the “Telecommunication Services”) and the arrangement for the provision of Telecommunication Services to Owners and the Association pursuant to bulk service agreements (“Bulk Service Agreements”) with one or more service providers designated by IFP. Declarant expressly reserves the right to enter into exclusive or non-exclusive

agreements for Infrastructure and Telecommunication Services on such terms, and with affiliated or non-affiliated third parties, as may be determined by Declarant in its sole discretion.

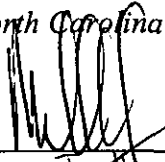
Owner understands and acknowledges that any such Bulk Service Agreements may require mandatory participation by all Owners, and may result in charges to the Association which are included in the assessments levied by the Association (the “**Telecommunication Assessment**”). By taking title to a Lot subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners to pay the Telecommunication Assessment. The sole exception to such mandatory participation in such Bulk Service Agreements and obligation to pay such Telecommunication Assessment are those Owners who signed a contract to purchase a Lot subject to the terms of this Declaration prior to August 18, 2008.

The Association acknowledges the Communication Easement and its applicability to the Property and the Common Areas now existing and which may be established from time to time. The Association shall also be responsible for fulfilling its obligations under each Bulk Service Agreement and any agreement between the Association and IFP with respect to the provision of Infrastructure and the arrangement for the provision of Telecommunication Services to Villages of Apex. The Association and each Owner acknowledge that provision of Telecommunication Services pursuant to Bulk Service Agreements shall be subject to usage policies and minimum equipment requirements of the service providers with respect to the services provided.

The Declarant shall be entitled to enter into arrangements with the IFP (as defined herein) that require the Association to include in its budgets and to levy and collect in accordance with this Declaration the charges incurred in connection with Telecommunications Services (as defined herein) for the services and facilities made available from time to time to the Owners within the Property. The Association shall be obligated pursuant to certain Bulk Services Agreements (as defined herein) to charge and collect from each Owner any and all expenses incurred in connection with the Bulk Services Agreements. Owner shall be obligated to pay to the Association the costs incurred by the Association in connection with the Bulk Services Agreement as a Telecommunication Assessment as provided in this Declaration. EACH OWNER (BY VIRTUE OF ACCEPTANCE OF TITLE TO A LOT) AGREES THAT THE TELECOMMUNICATIONS SERVICES MAY NOT BE AVAILABLE TO OWNER AT CLOSING OF TITLE TO THE LOT OR FOR SOME TIME THEREAFTER. NOTWITHSTANDING THIS FACT, EACH OWNER (BY VIRTUE OF ACCEPTANCE OF TITLE TO A LOT) AGREES THAT WHEN SUCH TELECOMMUNICATIONS SERVICES BECOME AVAILABLE, SUCH OWNER WILL BE RESPONSIBLE FOR THE PAYMENT OF COSTS IN CONNECTION WITH SUCH SERVICES AS DESCRIBED ABOVE. IN ADDITION, SHOULD ANY OWNER DECIDE TO ENTER INTO ANY OTHER AGREEMENT WITH SERVICES PROVIDERS ON A NON-BULK SERVICES ARRANGEMENT, SUCH OWNER (BY VIRTUE OF ACCEPTANCE OF TITLE TO A LOT) AGREES TO PAY FOR ALL COSTS IN CONNECTION WITH SUCH SERVICES, INCLUDING CANCELLATION FEES AND DISCONNECTION CHARGES. THIS PROVISION SHALL BE A COVENANT RUNNING WITH THE LAND FOR THE BENEFIT OF THE DECLARANT, THE ASSOCIATION AND THE IFP.

IN WITNESS WHEREOF, Declarant and the undersigned Builder have caused the Declaration to be executed in legal and binding form, on the date indicated in the acknowledgment of such signature.

DECLARANT
APEX FIRST DEVELOPMENT, LLC
a North Carolina limited liability company

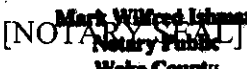
By: 
MICHAEL J. HOWINGTON, its manager/member

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, MARK WILFRED ISHAMAN, Notary Public of the state and county aforesaid certify that MICHAEL J. Howington personally came before me this day and acknowledged that he is the manager/member of Apex First Development, LLC, a North Carolina limited liability company, and that he as Manager being so authorized to do so, executed the foregoing on behalf of the limited liability company as managing member of Apex First Development, LLC.

Witness my hand and official seal, this the 10th day of April, 2010.


[NOTARY SEAL]
Mark Wilfred Ishaman
Notary Public
Wake County
North Carolina
My Commission Expires Jan. 31, 2013


My Commission Expires: 1/31/2013

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DECLARANT
NORTH CAROLINA II, L.P.
a Maryland limited partnership
By: WEH, Inc.
a Maryland corporation
its general partner

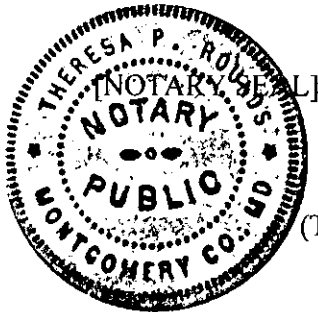
By: 
Stephen N. Fleischman, its Vice President

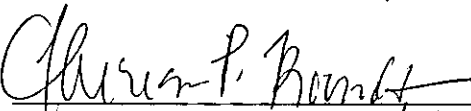
MARYLAND
STATE OF ~~NORTH CAROLINA~~

COUNTY OF ~~WAKE~~ MONTGOMERY

I, Theresa P. Rouns, Notary Public of the state and county aforesaid certify that Stephen N. Fleischman personally came before me this day and acknowledged that he is the Vice President of WEH, Inc., the general partner of North Carolina II L.P., a Maryland limited partnership, and that he as Vice President being so authorized to do so, executed the foregoing on behalf of the limited liability company as Vice President of WEH, Inc., general partner of North Carolina II L.P.

Witness my hand and official seal, this the 13th day of April, 2010.




My Commission Expires: 4-1-2011

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BUILDER
OAK CITY HOMES, LLC
a North Carolina limited liability company
Acknowledging that it purchased certain lots as described in Section 3 of **Exhibit A** from Declarant prior to the filing of the Declaration, and that it is agreeing and acknowledging that it is a “Builder” as defined in the Declaration and shall have such rights and obligations as a Builder accordingly.

By: _____
_____, its manager/member

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, _____, Notary Public of the state and county aforesaid certify that _____ personally came before me this day and acknowledged that he is the manager/member of Oak City Homes, LLC, a North Carolina limited liability company, and that he as Manager being so authorized to do so, executed the foregoing on behalf of the limited liability company as managing member of Oak City Homes, LLC.

Witness my hand and official seal, this the _____ day of _____, 2010.

[NOTARY SEAL]

My Commission Expires: _____

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BUILDER
COTTON CUSTOM HOMES, INC.
a North Carolina corporation

Acknowledging that it purchased certain lots as described in Section 3 of **Exhibit A** from Declarant prior to the filing of the Declaration, and that it is agreeing and acknowledging that it is a “Builder” as defined in the Declaration and shall have such rights and obligations as a Builder accordingly.

By: _____

Print Name: _____

Title: _____

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, _____, Notary Public of the state and county aforesaid certify that _____ personally came before me this day and acknowledged that he is the _____ (title) of Cotton Custom Homes, Inc, a North Carolina corporation, and that he as _____ (title) being so authorized to do so, executed the foregoing on behalf of the corporation as _____ (title) of Cotton Custom Homes, Inc.

Witness my hand and official seal, this the _____ day of _____, 2010.

[NOTARY SEAL]

My Commission Expires: _____

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OWNER
KS BANK INC.
a North Carolina corporation
Acknowledging that it acquired certain lots as described in
Section 3 of **Exhibit A** from Edwards Contracting Group,
Inc. prior to the filing of the Declaration.

By: _____

Print Name: _____

Title: _____

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, _____, Notary Public of the state and county
aforesaid certify that _____ personally came before me this day
and acknowledged that he is the _____ (title) of KS Bank Inc., a North Carolina
corporation, and that he as _____ (title) being so authorized to do so, executed
the foregoing on behalf of the corporation as _____ (title) of KS Bank Inc.

Witness my hand and official seal, this the ____ day of _____, 2010.

[NOTARY SEAL]

My Commission Expires: _____

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BUILDER
JERRY SMITH BUILDERS, INC.
a North Carolina corporation
Acknowledging that it purchased certain lots as described in Section 3 of **Exhibit A** from Declarant prior to the filing of the Declaration, and that it is agreeing and acknowledging that it is a “Builder” as defined in the Declaration and shall have such rights and obligations as a Builder accordingly.

By: _____

Print Name: _____

Title: _____

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, _____, Notary Public of the state and county aforesaid certify that _____ personally came before me this day and acknowledged that he is the _____ (title) of Jerry Smith Builders, Inc, a North Carolina corporation, and that he as _____ (title) being so authorized to do so, executed the foregoing on behalf of the corporation as _____ (title) of Jerry Smith Builders, Inc.

Witness my hand and official seal, this the _____ day of _____, 2010.

[NOTARY SEAL]

My Commission Expires: _____

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BUILDER
NHH, LLC
a North Carolina limited liability company
Acknowledging that it purchased certain lots as described in Section 3 of **Exhibit A** from Declarant prior to the filing of the Declaration, and that it is agreeing and acknowledging that it is a “Builder” as defined in the Declaration and shall have such rights and obligations as a Builder accordingly.

By: _____

Print Name: _____

Title: _____

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, _____, Notary Public of the state and county aforesaid certify that _____ personally came before me this day and acknowledged that he is the _____ (title) of NHH, LLC, a North Carolina limited liability company, and that he as _____ (title) being so authorized to do so, executed the foregoing on behalf of the limited liability as a Manager of NHH, LLC.

Witness my hand and official seal, this the _____ day of _____, 2010.

[NOTARY SEAL]

My Commission Expires: _____

(The remaining portion of this page is intentionally left blank.)

BUILDER
PHELAN BUILDING & DEVELOPMENT, INC.
a North Carolina corporation

Acknowledging that it purchased certain lots as described in Section 3 of **Exhibit A** from Declarant prior to the filing of the Declaration, and that it is agreeing and acknowledging that it is a “Builder” as defined in the Declaration and shall have such rights and obligations as a Builder accordingly.

By: _____

Print Name: _____

Title: _____

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, _____, Notary Public of the state and county aforesaid certify that _____ personally came before me this day and acknowledged that he is the _____ (title) of Phelan Building & Development, Inc, a North Carolina corporation, and that he as _____ (title) being so authorized to do so, executed the foregoing on behalf of the corporation as _____ (title) of Phelan Building & Development, Inc.

Witness my hand and official seal, this the _____ day of _____, 2010.

[NOTARY SEAL]

My Commission Expires: _____

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OWNER
BRANCH BANKING AND TRUST COMPANY
a North Carolina banking company
Acknowledging that it acquired certain lots as described in
Section 3 of **Exhibit A** from Cattano Construction, Inc.
prior to the filing of the Declaration.

By: _____

Print Name: _____

Title: _____

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, _____, Notary Public of the state and county
aforesaid certify that _____ personally came before me this day
and acknowledged that he is the _____ (title) of Branch Banking and Trust
Company, a North Carolina corporation, and that he as _____ (title) being so
authorized to do so, executed the foregoing on behalf of the corporation as _____
(title) of Branch Banking and Trust Company.

Witness my hand and official seal, this the _____ day of _____, 2010.

[NOTARY SEAL]

My Commission Expires: _____

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OWNER
TIERONE BANK, INC.
a North Carolina corporation
Acknowledging that it acquired certain lots as described in
Section 3 of **Exhibit A** from Cattano Construction, Inc.
prior to the filing of the Declaration.

By: _____

Print Name: _____

Title: _____

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, _____, Notary Public of the state and county
aforesaid certify that _____ personally came before me this day
and acknowledged that he is the _____ (title) of Tierone Bank, Inc, a North
Carolina corporation, and that he as _____ (title) being so authorized to do so,
executed the foregoing on behalf of the corporation as _____ (title) of Tierone
Bank, Inc.

Witness my hand and official seal, this the _____ day of _____, 2010.

[NOTARY SEAL]

My Commission Expires: _____

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OWNER
REWARD BUILDERS, INC.
a North Carolina corporation
Acknowledging that it acquired certain lots as described in
Section 3 of **Exhibit A** from Horizon Homes, LLC prior to
the filing of the Declaration.

By: _____

Print Name: _____

Title: _____

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, _____, Notary Public of the state and county
aforesaid certify that _____ personally came before me this day
and acknowledged that he is the _____ (title) of Reward Builders, Inc, a North
Carolina corporation, and that he as _____ (title) being so authorized to do so,
executed the foregoing on behalf of the corporation as _____ (title) of Reward
Builders, Inc.

Witness my hand and official seal, this the _____ day of _____, 2010.

[NOTARY SEAL]

My Commission Expires: _____

(The remaining portion of this page is intentionally left
blank.)

OWNER
AMPLE LENDING GROUP, LLC
a North Carolina limited liability company
Acknowledging that it acquired certain lots as described in
Section 3 of **Exhibit A** from Kerr Smith Homes & Land,
Inc. prior to the filing of the Declaration.

By: _____

Print Name: _____

Title: _____

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, _____, Notary Public of the state and county
aforesaid certify that _____ personally came before me this day
and acknowledged that he is the _____ (title) of Ample Lending Group, LLC, a
North Carolina limited liability company, and that he as _____ (title) being so
authorized to do so, executed the foregoing on behalf of the corporation as _____
(title) of Ample Lending Group, LLC.

Witness my hand and official seal, this the _____ day of _____, 2010.

[NOTARY SEAL]

My Commission Expires: _____

(The remaining portion of this page is intentionally left blank.)

OWNER
ULMER Z. BRIDGES, III & GRACE BOLLES
BRIDGES

Wake County, North Carolina citizens
Acknowledging that they are a married couple and have purchased certain lots as described in Section 4 of **Exhibit A** from Horizon Homes, LLC prior to the filing of the Declaration.

Ulmer Z., Bridges III

Grace Bolles Bridges

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, _____, Notary Public of the state and county aforesaid certify that Ulmer Z., Bridges III personally came before me this day and acknowledged that he is Ulmer Z., Bridges III, a Wake County, North Carolina citizen, and that he is executing the foregoing on behalf of himself.

Witness my hand and official seal, this the ____ day of _____, 2010.

[NOTARY SEAL]

My Commission Expires: _____

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, _____, Notary Public of the state and county aforesaid certify that Grace Bolles Bridges personally came before me this day and acknowledged that she is Grace Bolles Bridges, a Wake County, North Carolina citizen, and that she is executing the foregoing on behalf of herself.

Witness my hand and official seal, this the ____ day of _____, 2010.

[NOTARY SEAL]

My Commission Expires: _____

OWNER
MARK A. BRIDGES & DIANE BRIDGES
Wake County, North Carolina citizens
Acknowledging that they are a married couple and have purchased certain lots as described in Section 4 of **Exhibit A** from Horizon Homes, LLC prior to the filing of the Declaration.

Mark A. Bridges

Diane Bridges

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, _____, Notary Public of the state and county aforesaid certify that Mark A. Bridges personally came before me this day and acknowledged that he is Mark A. Bridges, a Wake County, North Carolina citizen, and that he is executing the foregoing on behalf of himself.

Witness my hand and official seal, this the ____ day of _____, 2010.

[NOTARY SEAL]

My Commission Expires: _____

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, _____, Notary Public of the state and county aforesaid certify that Diane Bridges personally came before me this day and acknowledged that she is Diane Bridges, a Wake County, North Carolina citizen, and that she is executing the foregoing on behalf of herself.

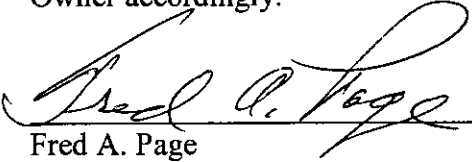
Witness my hand and official seal, this the ____ day of _____, 2010.

[NOTARY SEAL]

My Commission Expires: _____

OWNER
FRED A. PAGE AND TERRY D. PAGE
Wake County, North Carolina citizens

Acknowledging that they are a married couple and have purchased a certain lot as described in Section 4 of **Exhibit A** from Builder Cattano Construction, Inc. prior to the filing of the Declaration, and that each are agreeing and acknowledging that they are an "Owner" as defined in the Declaration and shall have such rights and obligations as an Owner accordingly.


Fred A. Page

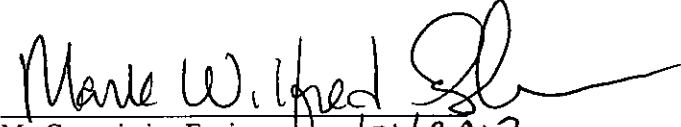

Terry D. Page

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, MARK WILFRED ISHMAN Notary Public of the state and county aforesaid certify that Fred A. Page personally came before me this day and acknowledged that he is Fred A. Page, a Wake County, North Carolina citizen, and that he is executing the foregoing on behalf of himself.

Witness my hand and official seal, this the 10th day of April, 2010.

[NOTARY SEAL]

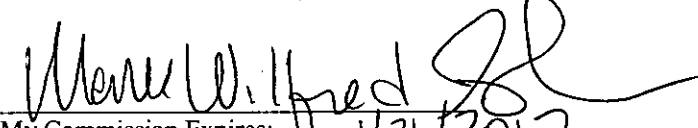

My Commission Expires: 1/31/2013

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, MARK WILFRED ISHMAN Notary Public of the state and county aforesaid certify that Terry D. Page personally came before me this day and acknowledged that she is Terry D. Page, a Wake County, North Carolina citizen, and that she is executing the foregoing on behalf of herself.

Witness my hand and official seal, this the 10th day of April, 2010.

Mark Wilfred Ishman
Notary Public
Wake County,
North Carolina
My Commission Expires Jan. 31, 2013


My Commission Expires: 1/31/2013

OWNER
STEPHANIE COMITO AND GREG COMITO

Wake County, North Carolina citizens
Acknowledging that they are a married couple and have purchased a certain lot as described in Section 4 of **Exhibit A** from Builder Cattano Construction, Inc. prior to the filing of the Declaration, and that each are agreeing and acknowledging that they are an “Owner” as defined in the Declaration and shall have such rights and obligations as an Owner accordingly.

Stephanie Comito

Greg Comito

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, _____, Notary Public of the state and county aforesaid certify that Stephanie Comito personally came before me this day and acknowledged that she is Stephanie Comito, a Wake County, North Carolina citizen, and that she is executing the foregoing on behalf of herself.

Witness my hand and official seal, this the ____ day of _____, 2010.

[NOTARY SEAL]

My Commission Expires: _____

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, _____, Notary Public of the state and county aforesaid certify that Greg Comito personally came before me this day and acknowledged that he is Greg Comito, a Wake County, North Carolina citizen, and that he is executing the foregoing on behalf of himself.

Witness my hand and official seal, this the ____ day of _____, 2010.

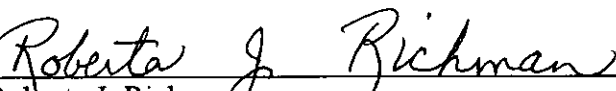
[NOTARY SEAL]

My Commission Expires: _____

OWNER
DAVID T. RICHMAN AND ROBERTA J. RICHMAN
Wake County, North Carolina citizens
Acknowledging that they are a married couple and have purchased a certain lot as described in Section 4 of **Exhibit A** from Builder Cotton Custom Homes, Inc. prior to the filing of the Declaration, and that each are agreeing and acknowledging that they are an "Owner" as defined in the Declaration and shall have such rights and obligations as an Owner accordingly.



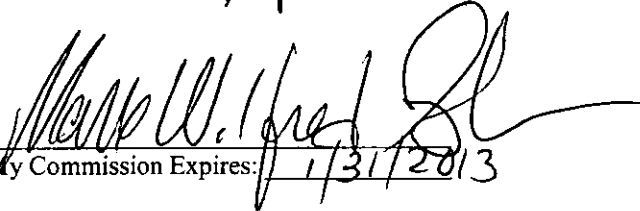
David T. Richman



Roberta J. Richman

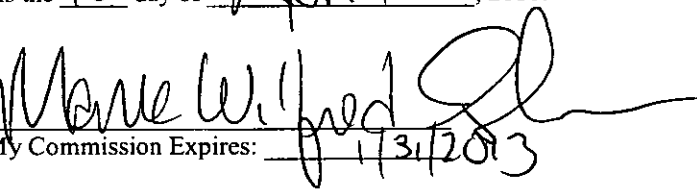
STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, MARK WILFRED ISHMAN Notary Public of the state and county aforesaid certify that Roberta J. Richman personally came before me this day and acknowledged that she is Roberta J. Richman, a Wake County, North Carolina citizen, and that she is executing the foregoing on behalf of herself.

Witness my hand and official seal, this the 10th day of April, 2010.
Mark Wilfred Ishman
Notary Public
Wake County, NC
[NOTARY SEAL]
My Commission Expires: 1/31/2013


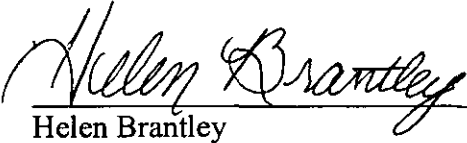
STATE OF NORTH CAROLINA
COUNTY OF WAKE

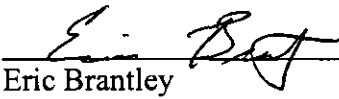
I, MARK WILFRED ISHMAN Notary Public of the state and county aforesaid certify that David T. Richman personally came before me this day and acknowledged that he is David T. Richman, a Wake County, North Carolina citizen, and that he is executing the foregoing on behalf of himself.

Witness my hand and official seal, this the 10th day of April, 2010.
Mark Wilfred Ishman
Notary Public
Wake County, NC
[NOTARY SEAL]
My Commission Expires Jan. 31, 2013


OWNER
HELEN BRANTLEY AND ERIC BRANTLEY

Wake County, North Carolina citizens
Acknowledging that they are a married couple and have purchased a certain lot as described in Section 4 of **Exhibit A** from Builder Cattano Construction, Inc. prior to the filing of the Declaration, and that each are agreeing and acknowledging that they are an "Owner" as defined in the Declaration and shall have such rights and obligations as an Owner accordingly.


Helen Brantley

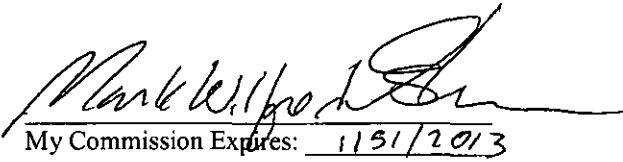

Eric Brantley

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, Mark Wilfred Ishman, Notary Public of the state and county aforesaid certify that Helen Brantley personally came before me this day and acknowledged that she is Helen Brantley, a Wake County, North Carolina citizen, and that she is executing the foregoing on behalf of herself.

Witness my hand and official seal, this the 10th day of April, 2010.

Mark Wilfred Ishman
Notary Public
Wake County
North Carolina
[NOTARY SEAL]
My Commission Expires Jan. 31, 2013

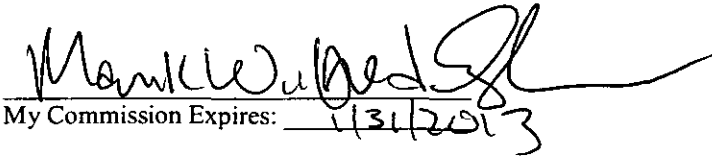

My Commission Expires: 1/31/2013

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, Mark Wilfred Ishman, Notary Public of the state and county aforesaid certify that Eric Brantley personally came before me this day and acknowledged that he is Eric Brantley, a Wake County, North Carolina citizen, and that he is executing the foregoing on behalf of himself.

Witness my hand and official seal, this the 10th day of April, 2010.

Mark Wilfred Ishman
Notary Public
Wake County
North Carolina
[NOTARY SEAL]
My Commission Expires Jan. 31, 2013


My Commission Expires: 1/31/2013

OWNER
DAVID B. GIBSON

Wake County, North Carolina citizen

Acknowledging that he is a single person and has purchased a certain lot as described in Section 4 of **Exhibit A** from Oak City Homes, LLC prior to the filing of the Declaration, and that he is agreeing and acknowledging that he is an “Owner” as defined in the Declaration and shall have such rights and obligations as an Owner accordingly.

David B. Gibson

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, _____, Notary Public of the state and county aforesaid certify that David B. Gibson personally came before me this day and acknowledged that he is David B. Gibson, a Wake County, North Carolina citizen, and that he is executing the foregoing on behalf of himself.

Witness my hand and official seal, this the ____ day of _____, 2010.

[NOTARY SEAL]

My Commission Expires: _____

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OWNER
DAVID GOODALL AND JENNIFER GOODALL
Wake County, North Carolina citizens

Acknowledging that they are a married couple and have purchased a certain lot as described in Section 4 of **Exhibit A** from Oak City Homes, LLC prior to the filing of the Declaration, and that each are agreeing and acknowledging that they are an “Owner” as defined in the Declaration and shall have such rights and obligations as an Owner accordingly.

Jennifer Goodall

David Goodall

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, _____, Notary Public of the state and county aforesaid certify that Jennifer Goodall personally came before me this day and acknowledged that she is Jennifer Goodall, a Wake County, North Carolina citizen, and that she is executing the foregoing on behalf of herself.

Witness my hand and official seal, this the ____ day of _____, 2010.

[NOTARY SEAL]

My Commission Expires: _____

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, _____, Notary Public of the state and county aforesaid certify that David Goodall personally came before me this day and acknowledged that he is David Goodall, a Wake County, North Carolina citizen, and that he is executing the foregoing on behalf of himself.

Witness my hand and official seal, this the ____ day of _____, 2010.

[NOTARY SEAL]

My Commission Expires: _____

OWNER
WILLIAM FAY AND MARTHA FAY

Wake County, North Carolina citizens
Acknowledging that they are a married couple and have purchased a certain lot as described in Section 4 of **Exhibit A** from Jerry Smith Builders, Inc. prior to the filing of the Declaration, and that each are agreeing and acknowledging that they are an "Owner" as defined in the Declaration and shall have such rights and obligations as an Owner accordingly.

Martha Fay
Martha Fay
William I. Fay
William Fay

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, Mark Wilfred Ishman, Notary Public of the state and county aforesaid certify that Martha Fay personally came before me this day and acknowledged that she is Martha Fay, a Wake County, North Carolina citizen, and that she is executing the foregoing on behalf of herself.

Witness my hand and official seal, this the 10th day of April, 2010.
Mark Wilfred Ishman
Notary Public
Wake County
[NOTARY SEAL]
My Commission Expires Jan. 31, 2013

Mark Wilfred Ishman
My Commission Expires: 1/31/2013

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, Mark Wilfred Ishman, Notary Public of the state and county aforesaid certify that William Fay personally came before me this day and acknowledged that he is William Fay, a Wake County, North Carolina citizen, and that he is executing the foregoing on behalf of himself.

Witness my hand and official seal, this the 10th day of April, 2010.
Mark Wilfred Ishman
Notary Public
Wake County
[NOTARY SEAL]
My Commission Expires Jan. 31, 2013

Mark Wilfred Ishman
My Commission Expires: 1/31/2013

OWNER
THOMAS GRIMES AND DOROTHY GRIMES
Wake County, North Carolina citizens

Acknowledging that they are a married couple and have purchased a certain lot as described in Section 4 of **Exhibit A** from Phelan Building & Development, Inc. prior to the filing of the Declaration, and that each are agreeing and acknowledging that they are an "Owner" as defined in the Declaration and shall have such rights and obligations as an Owner accordingly.

Dorothy Grimes by Mark Wilfred Ishman atty in fact by proxy
Dorothy Grimes
Thomas Grimes by Mark Wilfred Ishman atty in fact by proxy
Thomas Grimes

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, MARK WILFRED ISHMAN, Notary Public of the state and county aforesaid certify that Dorothy Grimes personally came before me this day and acknowledged that she is Dorothy Grimes, a Wake County, North Carolina citizen, and that she is executing the foregoing on behalf of herself.

Witness my hand and official seal, this the 10 day of April, 2010.

Mark Wilfred Ishman
[NOTARY SEAL] Notary Public
Wake County
North Carolina
My Commission Expires Jan. 31, 2013

Mark Wilfred Ishman
My Commission Expires: 1/31/2013

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, MARK WILFRED ISHMAN, Notary Public of the state and county aforesaid certify that Thomas Grimes personally came before me this day and acknowledged that he is Thomas Grimes, a Wake County, North Carolina citizen, and that he is executing the foregoing on behalf of himself.

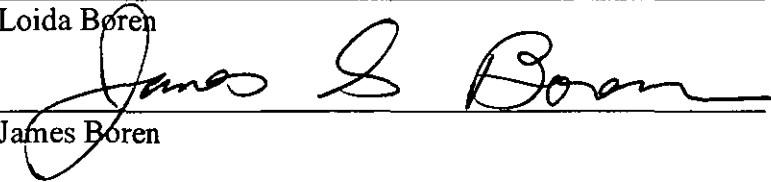
Witness my hand and official seal, this the 10th day of April, 2010.

Mark Wilfred Ishman
[NOTARY SEAL] Notary Public
Wake County
North Carolina
My Commission Expires Jan. 31, 2013

Mark Wilfred Ishman
My Commission Expires: 1/31/2013

OWNER
JAMES BOREN AND LOIDA BOREN
Wake County, North Carolina citizens

Acknowledging that they are a married couple and have purchased a certain lot as described in Section 4 of **Exhibit A** from Cattano Construction, Inc. prior to the filing of the Declaration, and that each are agreeing and acknowledging that they are an “Owner” as defined in the Declaration and shall have such rights and obligations as an Owner accordingly.

Loida Boren


James Boren

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, _____, Notary Public of the state and county aforesaid certify that Loida Boren personally came before me this day and acknowledged that she is Loida Boren, a Wake County, North Carolina citizen, and that she is executing the foregoing on behalf of herself.

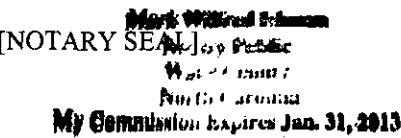
Witness my hand and official seal, this the _____ day of _____, 2010.

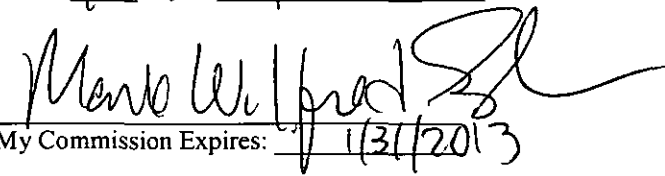
[NOTARY SEAL]
My Commission Expires: _____

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, MARK WILFRED SHUMAN, Notary Public of the state and county aforesaid certify that James Boren personally came before me this day and acknowledged that he is James Boren, a Wake County, North Carolina citizen, and that he is executing the foregoing on behalf of himself.

Witness my hand and official seal, this the 10th day of April, 2010.


[NOTARY SEAL]
My Commission Expires Jan. 31, 2013


My Commission Expires: 1/31/2013

OWNER
CHRISTINE MARTIN AND
CHRISTOPHER MARTIN
Wake County, North Carolina citizens
Acknowledging that they are a married couple and have purchased a certain lot as described in Section 4 of **Exhibit A** from KS Bank, Inc. prior to the filing of the Declaration, and that each are agreeing and acknowledging that they are an “Owner” as defined in the Declaration and shall have such rights and obligations as an Owner accordingly.

Christine Martin

Christopher Martin

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, _____, Notary Public of the state and county aforesaid certify that Christine Martin personally came before me this day and acknowledged that she is Christine Martin, a Wake County, North Carolina citizen, and that she is executing the foregoing on behalf of herself.

Witness my hand and official seal, this the ____ day of _____, 2010.

[NOTARY SEAL]

My Commission Expires: _____

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, _____, Notary Public of the state and county aforesaid certify that Christopher Martin personally came before me this day and acknowledged that he is Christopher Martin, a Wake County, North Carolina citizen, and that he is executing the foregoing on behalf of himself.

Witness my hand and official seal, this the ____ day of _____, 2010.

[NOTARY SEAL]

My Commission Expires: _____

OWNER
MICHAEL BEACH AND WINNIE BEACH
Wake County, North Carolina citizens

Acknowledging that they are a married couple and have purchased a certain lot as described in Section 4 of **Exhibit A** from KS Bank, Inc. prior to the filing of the Declaration, and that each are agreeing and acknowledging that they are an “Owner” as defined in the Declaration and shall have such rights and obligations as an Owner accordingly.

Winnie Beach

Michael Beach

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, _____, Notary Public of the state and county aforesaid certify that Winnie Beach personally came before me this day and acknowledged that she is Winnie Beach, a Wake County, North Carolina citizen, and that she is executing the foregoing on behalf of herself.

Witness my hand and official seal, this the ____ day of _____, 2010.

[NOTARY SEAL]

My Commission Expires: _____

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, _____, Notary Public of the state and county aforesaid certify that Michael Beach personally came before me this day and acknowledged that he is Michael Beach, a Wake County, North Carolina citizen, and that he is executing the foregoing on behalf of himself.

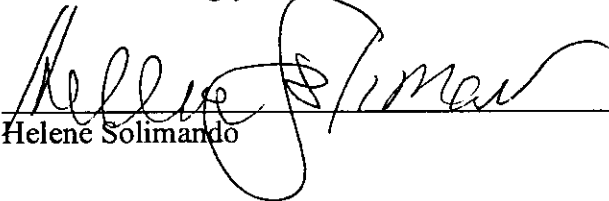
Witness my hand and official seal, this the ____ day of _____, 2010.

[NOTARY SEAL]

My Commission Expires: _____

OWNER
HELENE SOLIMANDO

Wake County, North Carolina citizen
Acknowledging that she is a single person and has purchased a certain lot as described in Section 4 of **Exhibit A** from Phelan Building & Development, Inc. prior to the filing of the Declaration, and that she is agreeing and acknowledging that she is an "Owner" as defined in the Declaration and shall have such rights and obligations as an Owner accordingly.

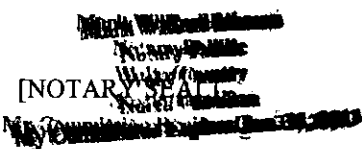


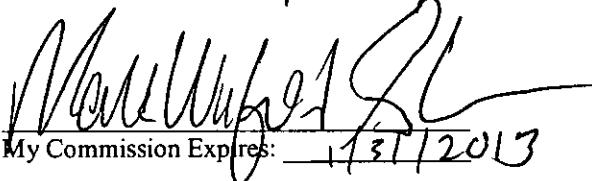
Helene Solimando

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, MARK WILFRED ISHAM, Notary Public of the state and county aforesaid certify that Helene Solimando personally came before me this day and acknowledged that she is Helene Solimando, a Wake County, North Carolina citizen, and that she is executing the foregoing on behalf of herself.

Witness my hand and official seal, this the 10th day of April, 2010.


[NOTARY SEAL]
My Commission Expires: 1/31/2013



My Commission Expires: 1/31/2013

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OWNER
RONALD D. STEIN AND MELANEY STEIN
Wake County, North Carolina citizen

Acknowledging that they are a married couple and have purchased a certain lot as described in Section 4 of **Exhibit A** from Oak City Homes, LLC prior to the filing of the Declaration, and that they are agreeing and acknowledging that they are an "Owner" as defined in the Declaration and shall have such rights and obligations as an Owner accordingly.



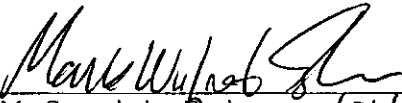
Ronald D. Stein
Melaney Mydland Stein

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, MARK WILFRED ISHMAN, Notary Public of the state and county aforesaid certify that Ronald D. Stein personally came before me this day and acknowledged that he is Ronald D. Stein, a Wake County, North Carolina citizen, and that he is executing the foregoing on behalf of himself.

Witness my hand and official seal, this the 10th day of April, 2010.

Mark Wilfred Ishman
Notary Public
Wake County
North Carolina
[NOTARY SEAL]
My Commission Expires Jan. 31, 2013



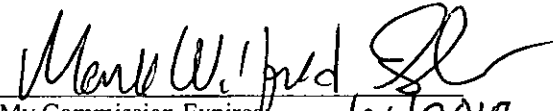
My Commission Expires: 1/31/2013

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, MARK WILFRED ISHMAN, Notary Public of the state and county aforesaid certify that Melaney Stein personally came before me this day and acknowledged that she is Melaney Stein, a Wake County, North Carolina citizen, and that she is executing the foregoing on behalf of herself.

Witness my hand and official seal, this the 10th day of April, 2010.

Mark Wilfred Ishman
Notary Public
Wake County
North Carolina
[NOTARY SEAL]
My Commission Expires Jan. 31, 2013



My Commission Expires: 1/31/2013

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OWNER
PAUL A. MARTINEZ

Wake County, North Carolina citizen

Acknowledging that he is a single person and has purchased a certain lot as described in Section 4 of **Exhibit A** from Cotton Custom Homes, Inc. prior to the filing of the Declaration, and that he is agreeing and acknowledging that he is an “Owner” as defined in the Declaration and shall have such rights and obligations as an Owner accordingly.

Paul A. Martinez

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, _____, Notary Public of the state and county aforesaid certify that Paul A. Martinez personally came before me this day and acknowledged that he is Paul A. Martinez, a Wake County, North Carolina citizen, and that he is executing the foregoing on behalf of himself.

Witness my hand and official seal, this the ____ day of _____, 2010.

[NOTARY SEAL]

My Commission Expires: _____

(The remaining portion of this page is intentionally left blank.)

OWNER
GARRY L. FLEMING
Wake County, North Carolina citizen
Acknowledging that he is a single person and has purchased a certain lot as described in Section 4 of **Exhibit A** from Oak City Homes, LLC prior to the filing of the Declaration, and that he is agreeing and acknowledging that he is an “Owner” as defined in the Declaration and shall have such rights and obligations as an Owner accordingly.

Garry L. Fleming

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, _____, Notary Public of the state and county aforesaid certify that Garry L. Fleming personally came before me this day and acknowledged that he is Garry L. Fleming, a Wake County, North Carolina citizen, and that he is executing the foregoing on behalf of himself.

Witness my hand and official seal, this the ____ day of _____, 2010.

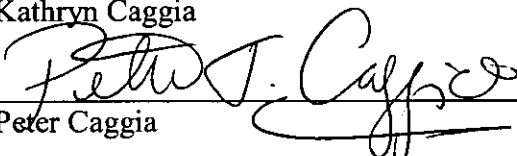
[NOTARY SEAL]

My Commission Expires: _____

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OWNER
PETER CAGGIA AND KATHRYN CAGGIA
Wake County, North Carolina citizens

Acknowledging that they are a married couple and have purchased a certain lot as described in Section 4 of **Exhibit A** from Cattano Construction, Inc. prior to the filing of the Declaration, and that each are agreeing and acknowledging that they are an “Owner” as defined in the Declaration and shall have such rights and obligations as an Owner accordingly.

Kathryn Caggia


Peter Caggia

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, _____, Notary Public of the state and county aforesaid certify that Kathryn Caggia personally came before me this day and acknowledged that she is Kathryn Caggia, a Wake County, North Carolina citizen, and that she is executing the foregoing on behalf of herself.

Witness my hand and official seal, this the ____ day of _____, 2010.

[NOTARY SEAL]

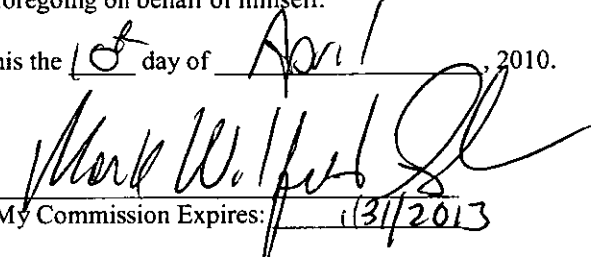
My Commission Expires: _____

STATE OF NORTH CAROLINA
COUNTY OF WAKE

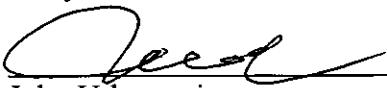
I, Mark Wilfred Ishman, Notary Public of the state and county aforesaid certify that Peter Caggia personally came before me this day and acknowledged that he is Peter Caggia, a Wake County, North Carolina citizen, and that he is executing the foregoing on behalf of himself.

Witness my hand and official seal, this the 10th day of April, 2010.

Mark Wilfred Ishman
[NOTARY PUBLIC]
Wake County
North Carolina
My Commission Expires Jan. 31, 2013


My Commission Expires: 1/31/2013

OWNER
JOHN URBANOWICZ AND KELLY URBANOWICZ
Wake County, North Carolina citizens
Acknowledging that they are a married couple and have purchased a certain lot as described in Section 4 of **Exhibit A** from Cotton Custom Homes, Inc. prior to the filing of the Declaration, and that each are agreeing and acknowledging that they are an "Owner" as defined in the Declaration and shall have such rights and obligations as an Owner accordingly.

Kelly Urbanowicz


John Urbanowicz

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, _____, Notary Public of the state and county aforesaid certify that Kelly Urbanowicz personally came before me this day and acknowledged that she is Kelly Urbanowicz, a Wake County, North Carolina citizen, and that she is executing the foregoing on behalf of herself.

Witness my hand and official seal, this the _____ day of _____, 2010.

[NOTARY SEAL]

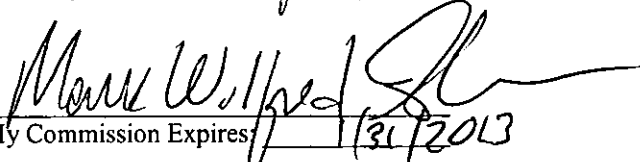
My Commission Expires: _____

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, Mark Wilfred Ishman, Notary Public of the state and county aforesaid certify that John Urbanowicz personally came before me this day and acknowledged that he is John Urbanowicz, a Wake County, North Carolina citizen, and that he is executing the foregoing on behalf of himself.

Witness my hand and official seal, this the 12th day of April, 2010.

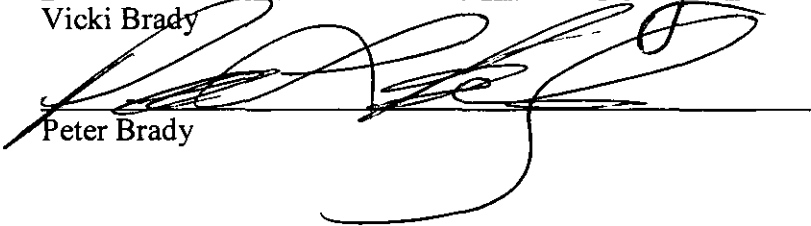
Mark Wilfred Ishman
Notary Public
Wake County
North Carolina
My Commission Expires Jan. 31, 2013


My Commission Expires 1/31/2013

OWNER
PETER BRADY AND VICKI BRADY

Wake County, North Carolina citizens
Acknowledging that they are a married couple and have purchased a certain lot as described in Section 4 of **Exhibit A** from Phelan Building & Development, Inc. prior to the filing of the Declaration, and that each are agreeing and acknowledging that they are an “Owner” as defined in the Declaration and shall have such rights and obligations as an Owner accordingly.



Vicki Brady


Peter Brady

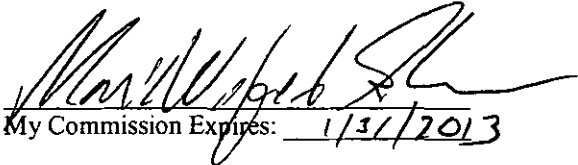
STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, MARK WILFRED ISHMAN, Notary Public of the state and county aforesaid certify that Vicki Brady personally came before me this day and acknowledged that she is Vicki Brady, a Wake County, North Carolina citizen, and that she is executing the foregoing on behalf of herself.

Witness my hand and official seal, this the 10th day of April, 2010.

Mark Wilfred Ishman
Notary Public
Wake County
North Carolina
My Commission Expires Jan. 31, 2013


My Commission Expires: 1/31/2013

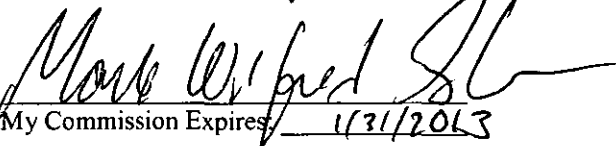
STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, MARK WILFRED ISHMAN, Notary Public of the state and county aforesaid certify that Peter Brady personally came before me this day and acknowledged that he is Peter Brady, a Wake County, North Carolina citizen, and that he is executing the foregoing on behalf of himself.

Witness my hand and official seal, this the 10th day of April, 2010.

Mark Wilfred Ishman
Notary Public
Wake County
North Carolina
My Commission Expires Jan. 31, 2013


My Commission Expires: 1/31/2013

OWNER
CARLOS CRUZ

Wake County, North Carolina citizen

Acknowledging that he is a single person and has purchased a certain lot as described in Section 4 of **Exhibit A** from NHH, LLC prior to the filing of the Declaration, and that he is agreeing and acknowledging that he is an “Owner” as defined in the Declaration and shall have such rights and obligations as an Owner accordingly.



Carlos Cruz

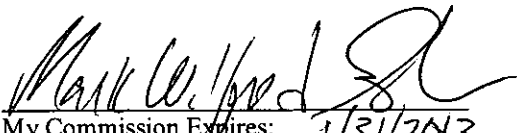
STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, MARK WILFRED ISHMAN, Notary Public of the state and county aforesaid certify that Carlos Cruz personally came before me this day and acknowledged that he is Carlos Cruz, a Wake County, North Carolina citizen, and that he is executing the foregoing on behalf of himself.

Witness my hand and official seal, this the 10 day of April, 2010.

Mark Wilfred Ishman
Notary Public
Wake County
North Carolina
[NOTARY SEAL]
My Commission Expires Jan. 31, 2013


My Commission Expires: 1/31/2013

(The remaining portion of this page is intentionally left blank.)

OWNER
SYLVIA J. FULLER

Wake County, North Carolina citizen

Acknowledging that she is a single person and has purchased a certain lot as described in Section 4 of **Exhibit A** from NHH, LLC prior to the filing of the Declaration, and that she is agreeing and acknowledging that she is an “Owner” as defined in the Declaration and shall have such rights and obligations as an Owner accordingly.

Sylvia J. Fuller

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, _____, Notary Public of the state and county aforesaid certify that Sylvia J. Fuller personally came before me this day and acknowledged that she is Sylvia J. Fuller, a Wake County, North Carolina citizen, and that she is executing the foregoing on behalf of herself.

Witness my hand and official seal, this the _____ day of _____, 2010.

[NOTARY SEAL]

My Commission Expires: _____

EXHIBIT A

The following real property is held, transferred, sold, conveyed, used and occupied subject to the Declaration, and which is within the jurisdiction of the Association, which description of such real property is provided in this Exhibit A in accordance to the road map below:

- 1. Villages of Apex - Trackside North
 - a. Metes and Bounds Description
 - b. Villages of Apex – Trackside North Continuous Annexation Map 1
 - c. Villages of Apex – Trackside North Continuous Annexation Map 2
- 2. Villages of Apex – Trackside South
 - a. Metes and Bounds Description
 - b. Villages of Apex – Trackside South Map of Home Owners Association Areas
 - c. Villages of Apex – Trackside South “Tract A” and “Tract B” Boundary Map
- 3. Old Mill Village
 - a. Metes and Bounds Description – The Regents
 - b. Metes and Bounds Description – Lot 7 (Clubhouse & Pool Site)
 - c. Metes and Bounds Description – The Sterling
 - d. Old Mills Village – The Regents Map 1
 - e. Old Mills Village – The Sterling Map 2
- 4. Lots that Declarant has Conveyed to Builders as of the Filing of the Declaration
- 5. Lots that such Builders have Conveyed to Owners as of the Filing of the Declaration
 - a. Conveyed from Builder Cattano Construction, Inc.
 - b. Conveyed from Builder Cotton Custom Homes, Inc.
 - c. Conveyed from Builder Oak City Homes, LLC
 - d. Conveyed from Builder Jerry Smith Builders, Inc.
 - e. Conveyed from Builder Phelan Building & Development, Inc.
 - f. Conveyed from Builder NHH, LLC
 - g. Conveyed from Builder Horizon Homes, LLC
 - h. Conveyed from Builder Kerr Smith Homes & Land, Inc.
 - i. Conveyed from Builder Edwards Contracting Group, Inc.

1. VILLAGES OF APEX - TRACKSIDE NORTH

a. METES AND BOUNDS DESCRIPTION OF THE VILLAGES OF APEX – TRACKSIDE NORTH

METES AND BOUNDS DESCRIPTION
VILLAGES OF APEX (TRACKSIDE NORTH)
APEX FIRST DEVELOPMENT, LLC PROPERTY
APEX, NORTH CAROLINA
PIN # 0742555453; 0742564866

BEGINNING AT AN EXISTING IRON PIPE ON THE EASTERN RIGHT OF WAY LINE OF CSX TRANSPORTATION RAILROAD (100' PRIVATE RIGHT OF WAY), SAID IRON BEING SOUTH 54 DEGREES 23 MINUTES 11 SECONDS EAST 1,686.83 FEET FROM NORTH CAROLINA GRID MONUMENT "EARL SMITH" (NAD 83), (REFERENCED TO BOOK OF MAPS 1997, PAGE 956, AND ALL DISTANCES ARE HORIZONTAL GROUND UNLESS OTHERWISE STATED), THENCE NORTH 04 DEGREES 06 MINUTES 58 SECONDS EAST ALONG THE EASTERN LINE OF SAID RIGHT OF WAY FOR A DISTANCE OF 325.90 FEET TO AN EXISTING IRON PIPE; THENCE CONTINUING ALONG SAID RIGHT OF WAY NORTH 04 DEGREES 21 MINUTES 00 SECONDS EAST 65.65 FEET TO AN EXISTING IRON PIPE; THENCE LEAVING SAID RIGHT OF WAY SOUTH 88 DEGREES 27 MINUTES 54 SECONDS EAST 53.72 FEET TO AN EXISTING IRON PIPE; THENCE NORTH 06 DEGREES 25 MINUTES 15 SECONDS EAST 294.10 FEET TO AN EXISTING IRON PIPE; THENCE NORTH 80 DEGREES 43 MINUTES 17 SECONDS EAST 37.21 FEET TO AN EXISTING IRON PIPE; THENCE NORTH 12 DEGREES 23 MINUTES 28 SECONDS EAST 91.26 FEET TO AN EXISTING IRON PIPE, THENCE NORTH 77 DEGREES 36 MINUTES 22 SECONDS EAST 79.92 FEET TO AN EXISTING IRON PIPE ON AFOREMENTIONED RAILROAD RIGHT OF WAY; THENCE WITH SAID RIGHT OF WAY NORTH 13 DEGREES 32 MINUTES 45 SECONDS EAST 47.93 FEET TO AN EXISTING IRON PIPE ON SOUTHERN RIGHT OF WAY LINE OF US HIGHWAY 64; THENCE WITH SAID RIGHT OF WAY, SOUTH 78 DEGREES 03 MINUTES 54 SECONDS EAST 225.15 FEET TO AN EXISTING IRON PIPE; THENCE NORTH 11 DEGREES 56 MINUTES 06 SECONDS EAST 10.00 FEET TO AN EXISTING IRON PIPE; THENCE SOUTH 78 DEGREES 03 MINUTES 54 SECONDS EAST 92.68 FEET TO AN EXISTING IRON PIPE; THENCE SOUTH 79 DEGREES 4 MINUTES 10 SECONDS EAST 290.21 FEET TO AN EXISTING IRON PIPE; THENCE SOUTH 81 DEGREES 33 MINUTES 58 SECONDS EAST 124.01 FEET TO AN EXISTING IRON PIPE; THENCE SOUTH 01 DEGREES 08 MINUTES 27 SECONDS WEST 392.74 FEET TO AN EXISTING IRON PIPE; THENCE NORTH 89 DEGREES 01 MINUTES 08 SECONDS WEST 49.91 FEET TO AN EXISTING IRON PIPE; THENCE SOUTH 1 DEGREE 6 MINUTES 56 SECONDS WEST 409.03 FEET TO AN EXISTING IRON PIPE; THENCE SOUTH 88 DEGREES 52 MINUTES 17 SECONDS EAST 225.93 FEET TO AN EXISTING IRON PIPE; THENCE SOUTH 01 DEGREE 36 MINUTES 13 SECONDS WEST 137.57 FEET TO AN EXISTING IRON PIPE; THENCE SOUTH 85 DEGREES 38 MINUTES 25 SECONDS EAST 255.73 FEET TO AN EXISTING IRON PIPE; THENCE NORTH 01 DEGREE 05 MINUTES 59 SECONDS EAST 479.22 FEET TO A COMPUTED CORNER THAT FALLS IN THE INSIDE OF A DILAPIDATED STRUCTURE; THENCE FROM SAID COMPUTED CORNER, NORTH 01 DEGREES 05 MINUTES 59 SECONDS EAST 437.55 FEET TO AN EXISTING IRON PIPE LOCATED ON THE AFOREMENTIONED SOUTHERN RIGHT OF WAY LINE OF US HIGHWAY 64; THENCE WITH SAID RIGHT OF WAY, SOUTH 87 DEGREES 19 MINUTES 41 SECONDS EAST 30.01 FEET TO AN EXISTING IRON PIPE; THENCE SOUTH 87 DEGREES 19 MINUTES 41 SECONDS EAST TO AN IRON PIPE SET; THENCE SOUTH 88 DEGREES 02 MINUTES 01 SECOND EAST 80.70 FEET TO AN EXISTING CONCRETE MONUMENT; THENCE SOUTH 01 DEGREE 14 MINUTES 01 SECONDS EAST 35.00 FEET TO AN IRON PIPE SET; THENCE NORTH 88 DEGREES 53 MINUTES 52 SECONDS EAST 515.47 FEET TO AN EXISTING IRON PIPE; THENCE NORTH 88 DEGREES 45 MINUTES 24 SECONDS EAST 58.28 FEET TO AN IRON PIPE

SET; THENCE NORTH 89 DEGREES 22 MINUTES 4 SECONDS EAST 192.77 FEET TO AN IRON PIPE SET; THENCE WITH THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A CHORD BEARING AND DISTANCE OF SOUTH 89 DEGREES 59 MINUTES 55 SECONDS EAST 109.16 FEET WITH A RADIUS OF 2204.90 FEET AND AN ARC LENGTH OF 109.17 FEET TO AN EXISTING CONCRETE MONUMENT; THENCE LEAVING AFORMENTIONED RIGHT OF WAY OF US HIGHWAY 64 AND WITH THE WESTERN RIGHT OF WAY LINE OF CSX TRANSPORTATION (VARIABLE WIDTH RIGHT OF WAY), SOUTH 27 DEGREES 55 MINUTES 47 SECONDS EAST 406.54 FEET TO AN IRON PIPE SET; THENCE NORTH 86 DEGREES 53 MINUTES 29 SECONDS WEST 55.14 FEET TO AN EXISTING IRON PIPE; THENCE SOUTH 27 DEGREES 58 MINUTES 37 SECONDS WEST 107.24 FEET TO AN EXISTING IRON PIPE; THENCE SOUTH 27 DEGREES 55 MINUTES 32 SECONDS WEST 2,356.25 FEET TO AN EXISTING IRON PIPE; THENCE LEAVING SAID RIGHT OF WAY, NORTH 85 DEGREES 59 MINUTES 31 SECONDS WEST 651.57 FEET TO AN EXISTING IRON PIPE; THENCE NORTH 85 DEGREES 59 MINUTES 31 SECONDS WEST 499.97 FEET TO AN EXISTING IRON PIPE IN A COMMON LINE WITH EASTERN RIGHT OF WAY OF 100 FOOT CSX TRANSPORTATION RIGHT OF WAY; THENCE ALONG SAID EASTERN RIGHT OF WAY LINE NORTH 04 DEGREES 00 MINUTES 36 SECONDS EAST 1,021.63 FEET TO AN EXISTING IRON PIPE; THENCE NORTH 04 DEGREES 00 MINUTES 52 SECONDS EAST 804.57 FEET TO AN EXISTING IRON PIPE, THE POINT OF BEGINNING.

SAID PARCEL BEING A COMPILATION OF PARCELS ONE THROUGH FIVE CONTAINING 83.192 ACRES AS SHOWN ON SURVEY ENTITLED, "ALTA/ACSM LAND TITLE SURVEY TRACKSIDE NORTH FOR APEX FIRST DEVELOPMENT" BY TIMOTHY E. BOWES DATED MARCH 3, 2005 AND TRACTS CONTAINING 7.850 ACRES AND 2.205 ACRES AS SHOWN ON PLAT ENTITLED, "BOUNDARY SURVEY OF MASIE & WILLIAM FREEMAN TRACTS FOR APEX FIRST DEVELOPMENT" DATED NOVEMBER 1, 2004. SAID PARCEL CONTAINING A TOTAL OF 93.247 MORE OR LESS.

THE BOUNDARY DESCRIPTION PREPARED EMBODIES THE SURVEYOR'S OPINION OF THE LOCATION OF THE BOUNDARY LINES OF THE TRACT AND IS NOT TO BE CONSTRUED AS A CERTIFICATION TO QUALITY OF TITLE TO THE PROPERTY.

PROPERTY IS SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.

**b. VILLAGES OF APEX – TRACKSIDE NORTH
CONTINUOUS ANNEXATION MAP OF THE VILLAGES OF APEX
(TRACKSIDE)**

Lying in the Town of Apex, Wake County, North Carolina, and being more particularly described as follows:

All of the real property shown and described on the certain map on the proceeding page hereto and incorporated hereto entitled CONTINUOUS ANNEXATION MAP OF THE

VILLAGES OF APEX (TRACKSIDE), and SAVING AND EXCEPTING THEREFROM the easements and rights-of-way of public streets shown on said map.

(The remaining portion of this page of Exhibit A is intentionally left blank.)

**c. VILLAGES OF APEX – TRACKSIDE NORTH
CONTINUOUS ANNEXATION MAP OF THE VILLAGES OF APEX
(TRACKSIDE)**

Lying in the Town of Apex, Wake County, North Carolina, and being more particularly described as follows:

All of the real property shown and described on the certain map on the proceeding page hereto and incorporated hereto entitled CONTINUOUS ANNEXATION MAP OF THE VILLAGES OF APEX (TRACKSIDE), and SAVING AND EXCEPTING THEREFROM the easements and rights-of-way of public streets shown on said map.

(The remaining portion of this page of Exhibit A is intentionally left blank.)

2. VILLAGES OF APEX - TRACKSIDE SOUTH

**a. METES AND BOUNDS DESCRIPTION OF THE VILLAGES OF
APEX – TRACKSIDE SOUTH**

LEGAL DESCRIPTION
VILLAGES OF APEX (TRACKSIDE SOUTH)
NC II, L.P. PROPERTY
APEX, NORTH CAROLINA
PIN #0742547499; 0742538390

BEGINNING AT AN EXISTING 3/4" OUTSIDE DIAMETER (O.D.) IRON PIPE ALSO BEING THE NORTHEAST CORNER FOR NOW OR FORMERLY LAMPE ENTERPRISES 1995 LTD PARTNERSHIP (GUY C. LEE BUILDING SUPPLY) AS FOUND IN DEED BOOK (DB) 6799, PAGE (PG) 19 WAKE COUNTY REGISTER OF DEEDS, SAID IRON BEING SOUTH 32 DEGREES 07 MINUTES 09 SECONDS EAST 3,335.69 FEET FROM NORTH CAROLINA GRID MONUMENT "EARL SMITH" (NAD 83), AND ALL DISTANCES ARE HORIZONTAL GROUND UNLESS OTHERWISE STATED), THENCE ALONG A COMMON LINE WITH NOW OR FORMERLY APEX FIRST DEVELOPMENT PROPERTY (DB) 10902, (PG) 190 AND BOOK OF MAPS 2004, (PG) 1148 WAKE COUNTY REGISTER OF DEEDS, SOUTH 87 DEGREES 42 MINUTES 39 SECONDS EAST, 651.60 FEET TO AN EXISTING 3/4" IRON PIPE IN THE WESTERN RIGHT OF WAY OF LINE OF CSX TRANSPORTATION (200 FOOT WIDE TO 100 FOOT WIDE PRIVATE RIGHT OF WAY), THENCE ALONG SAID WESTERN RIGHT OF WAY CSX TRANSPORTATION AS IT NARROWS TO A 100-FOOT WIDE PRIVATE RIGHT OF WAY (BOOK OF MAPS 1951, PAGE 46 WAKE COUNTY REGISTER OF DEEDS) SOUTH 87 DEGREES 42 MINUTES 39 SECONDS EAST, 54.40 FEET TO A SET 3/4" (O.D.) IRON PIPE; THENCE LEAVING SAID WESTERN CSX RIGHT OF WAY AND CROSSING SAID 100 FOOT WIDE PRIVATE RIGHT OF WAY, NORTH 87 DEGREES 26 MINUTES 08 SECONDS EAST, 114.09 FEET TO A SET 3/4" (O.D.) IRON PIPE IN THE EASTERN RIGHT OF WAY OF SAID CSX TRANSPORTATION; THENCE ALONG SAID EASTERN RIGHT OF WAY CSX TRANSPORTATION AS IT INCREASES TO A 200- FOT WIDE PRIVATE RIGHT OF WAY, SOUTH 84 DEGREES 34 MINUTES 13 SECONDS EAST, 53.60 FEET TO AN EXISTING 3/4" (O.D.) IRON PIPE, SAID PIPE ALSO BEING A COMMON CORNER WITH BROOKFIELD SUBDIVISION (BOOK OF MAPS 1986, PG. 1047 AND BOOK OF MAPS 1993, PG. 1410 WAKE COUNTY RESGISTER OF DEEDS); THENCE LEAVING EASTERN RIGHT OF WAY LINE CSX TRANSPORTATION ALONG A COMMON LINE WITH SAID BROOKFIELD SUBDIVISION, SOUTH 84 DEGREES 34 MINUTES 13 SECONDS EAST, 324.17 FEET TO AN EXISITNG 3/4" (O.D.) IRON PIPE; THENCE ALONG A COMMON LINE WITH SAID BROOKFIELD SUBDIVISION, SOUTH 00 DEGREES 08 MINUTES 49 SECONDS WEST, 990.53 FEET TO AN EXISTING 3/4" (O.D.) IRON PIPE; THENCE ALONG A COMMON LINE WITH SAID BROOKFIELD SUBDIVISION, SOUTH 89 DEGREES 01 MINUTES 33 SECONDS EAST, 126.29 FEET TO AN EXISTING 3/4" (OD) IORN PIPE, SAID IRON BEING THE SOUTHWEST CORNER OF NOW OR FORMERLY CALVIN B. PERRY AND MARGARET B. PERRY PROPERTY (DB. 2249, PG. 499 WAKE COUNTY REGISTER OF DEEDS); THENCE ALONG A COMMON LINE WITH SAID CALVIN B. PERRY AND MARGARET B. PERRY PROPERTY, SOUTH 89 DEGREES 01

MINUTES 33 SECONDS EAST, 195.77 FEET TO AN EXISTING ¾" (O.D.) IRON PIPE IN THE WESTERN RIGHT OF WAY OF LAURA DUNCAN ROAD (VARIABLE WIDTH PUBLIC RIGHT OF WAY); THENCE ALONG SAID WESTERN RIGHT OF WAY LAURA DUNCAN, SOUTH 41 DEGREES 05 MINUTES 00 SECONDS WEST, 66.41 FEET TO A POINT; THENCE ALONG SAID WESTERN RIGHT OF WAY LAURA DUNCAN ROAD, SOUTH 39 DEGREES 17 MINUTES 49 SECONDS WEST, 92.40 FEET TO A POINT; THENCE ALONG SAID WESTERN RIGHT OF WAY LAURA DUNCAN ROAD, 399.08 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1,346.23 FEET, CHORD BEARING OF SOUTH 30 DEGREES 11 MINUTES 05 SECONDS WEST AND CHORD DISTANCE OF 397.62 FEET TO A POINT; THENCE ALONG SAID WESTERN RIGHT OF WAY LAURA DUNCAN ROAD, SOUTH 20 DEGREES 17 MINUTES 24 SECONDS WEST, 110.60 FEET TO A POINT; THENCE ALONG SAID WESTERN RIGHT OF WAY LAURA DUNCAN ROAD; SOUTH 18 DEGREES 05 MINUTES 38 SECONDS WEST, 283.01 FEET TO A POINT; THENCE ALONG SAID WESTERN RIGHT OF WAY LAURA DUNCAN ROAD, 557.87 FEET ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 1,682.93 FEET, CHORD BEARING OF SOUTH 27 DEGREES 03 MINUTES 57 SECONDS WEST AND CHORD DISTANCE OF 555.32 FEET TO A POINT; THENCE ALONG SAID WESTERN RIGHT OF WAY LAURA DUNCAN ROAD, SOUTH 36 DEGREES 01 MINUTES 49 SECONDS WEST, 132.33 FEET TO A POINT; THENCE ALONG SAID WESTERN RIGHT OF WAY LAURA DUNCAN ROAD, SOUTH 40 DEGREES 05 MINUTES 01 SECONDS WEST, 136.59 FEET TO A POINT; THENCE ALONG SAID WESTERN RIGHT OF WAY LAURA DUNCAN ROAD AS IT INTERSECTS WITH HUNTER STREET (90 FOOT WIDE PUBLIC RIGHT OF WAY), SOUTH 81 DEGREES 44 MINUTES 17 SECONDS WEST, 64.37 FEET TO A POINT IN THE SAID NORTHERN RIGHT OF WAY HUNTER STREET; THENCE ALONG SAID NORTHERN RIGHT OF WAY HUNTER STREET, NORTH 56 DEGREES 29 MINUTES 46 SECONDS WEST, 417.20 FEET TO A POINT; THENCE ALONG SAID NORTHERN RIGHT OF WAY HUNTER STREET, 404.74 FEET ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 1,190.92 FEET, CHORD BEARING OF NORTH 66 DEGREES 13 MINUTES 32 SECONDS WEST AND CHORD DISTANCE OF 402.79 FEET TO AN EXISITNG ½" REBAR; THENCE ALONG SAID NORTHERN RIGHT OF WAY HUNTER STREET, NORTH 75 DEGREES 51 MINUTES 14 SECONDS WEST, 135.61 FEET TO A POINT IN THE EASTERN RIGHT OF WAY OF SAID CSX TRANSPORTATION 100 FOOT WIDE PRIVATE RIGHT OF WAY; THENCE ALONG SAID NORTHERN RIGHT OF WAY HUNTER STREET AND CROSSING SAID CSX TRANSPORTATION RIGHT OF WAY, NORTH 74 DEGREES 26 MINUTES 24 SECONDS WEST, 101.75 FEET TO A POINT IN THE WESTERN RIGHT OF WAY SAID CSX TRANSPORTATION; THENCE LEAVING SAID WESTERN RIGHT OF WAY CSX TRANSPORTATION 100 FOOT WIDE RIGHT OF WAY ALONG SAID NORTHERN RIGHT OF WAY HUNTER STREET, NORTH 76 DEGREES 19 MINUTES 50 SECONDS WEST, 249.84 FEET TO A POINT IN THE EASTERN RIGHT OF WAY OF A 100 FOOT WIDE CSX TRANSPORTATION PRIVATE RIGHT OF WAY (DB) 197, (PG.) 126 WAKE COUNTY REGISTER OF DEEDS; THENCE ALONG SAID EASTERN RIGHT OF WAY CSX TRANSPORTATION, NORTH 02 DEGREES 15 MINUTES 57 SECONDS EAST, 1,245.49 FEET TO A SET ¾" (O.D.) IRON PIPE; THENCE LEAVING SAID EASTERN RIGHT OF WAY CSX TRANSPORTATION ALONG A COMMON LINE WITH SAID LAMPE ENTERPRISES 1995 LTD PARTNERSHIP, SOUTH 87 DEGREES 43

MINUTES 16 SECONDS EAST, 500.80 FEET TO A POINT; THENCE ALONG A COMMON LINE WITH SAID LAMPE ENTERPRISES 1995 LTD PARTNERSHIP, NORTH 02 DEGREES 16 MINUTES 44 SECONDS EAST, 872.07 FEET TO AN EXISTING ¾" (O.D.) IRON PIPE, THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 81.87 ACRES FROM WHICH 5.48 ACRES IS TO BE EXCLUDED FOR BEING CSX RAIL RIGHT OF WAY WHICH LEAVES A NET AREA OF 76.39 ACRES.

THE BOUNDARY DESCRIPTION PREPARED EMBODIES THE SURVEYOR'S OPINION OF THE LOCATION OF THE BOUNDARY LINES OF THE TRACT AND IS NOT TO BE CONSTRUED AS A CERTIFICATION TO QUALITY OF TITLE TO THE PROPERTY.

PROPERTY IS SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.

b. VILLAGES OF APEX - TRACKSIDE SOUTH
EXHIBIT A – VILLAGES OF APEX SOUTH HOA AREAS

Lying in the Town of Apex, Wake County, North Carolina, and being more particularly described as follows:

All of the real property shown and described on the certain map on the proceeding page hereto and incorporated hereto entitled EXHIBIT A – VILLAGES OF APEX SOUTH HOA AREAS, and SAVING AND EXCEPTING THEREFROM the easements and rights-of-way of public streets shown on said map.

(The remaining portion of this page of Exhibit A is intentionally left blank.)

**c. VILLAGES OF APEX - TRACKSIDE SOUTH
BOUNDARY SURVEY OF TRACKSIDE SOUTH TRACT "A" &
TRACT "B"**

Lying in the Town of Apex, Wake County, North Carolina, and being more particularly described as follows:

All of the real property shown and described on the certain map on the proceeding page hereto and incorporated hereto entitled BOUNDARY SURVEY OF TRACKSIDE SOUTH TRACT "A" & TRACT "B", and SAVING AND EXCEPTING THEREFROM the easements and rights-of-way of railroad tracks shown on said map.

(The remaining portion of this page of **Exhibit A** is intentionally left blank.)

3. OLD MILL VILLAGE

a. LEGAL DESCRIPTION OF OLD MILL VILLAGE – THE REGENTS

Being all of Lot 2, containing 1.826 acres, more or less, as shown on and described on that certain map by BBM Associates, Inc. entitled “Final Subdivision Plat for Old Mill Village Lot 2”, dated April 18, 2007, and recorded in the Wake County, North Carolina Registry in Book of Maps 2007, Page 907-08, to which map reference is made for a more particular description, and is subject to those easements as described on that certain map by BBM Associates, Inc. entitled “Easement Plat for Old Mill Village Lot 2”, dated April 8, 2008, and recorded in the Wake County, North Carolina Registry in Book of Maps 2008, Page 718, to which map reference is made for a more particular description.

Being all of Lot 3 – Phase I, containing 4.31 acres, more or less, as shown on and described on that certain map by BBM Associates, Inc. entitled “Recombination & Major Subdivision Final Plat Old Mill Village Lot 3 – Phase I”, dated October 9, 2007, and recorded in the Wake County, North Carolina Registry in Book of Maps 2007, Pages 2390-91, to which map reference is made for a more particular description, and is subject to those easements as described on that certain map by BBM Associates, Inc. entitled “Cross Access Easement Plat for Old Mill Village Lot 3 – Phase I Lots 1 - 8”, dated October 22, 2007, and recorded in the Wake County, North Carolina Registry in Book of Maps 2007, Page 2465, to which map reference is made for a more particular description.

Being all of Lot 3 – Phase II, containing 0.689 acres, more or less, as shown on and described on that certain map by BBM Associates, Inc. entitled “Major Subdivision Final Plat Old Mill Village Lot 3 – Phase II Lots 9-14”, dated April 9, 2008, and recorded in the Wake County, North Carolina Registry in Book of Maps 2008, Page 901, to which map reference is made for a more particular description.

(The remaining portion of this page is intentionally left blank.)

**THE FOLLOWING THREE SETS OF METES & BOUNDS DESCRIPTIONS
ARE FOR ALL OF LOT 7**

SUB-LOTS 41-46 of LOT 7

That 0.198 acres of land lying in the Apex Township, Wake County, North Carolina, and being bounded on the North by Old Mill Village Drive (Variable width public right-of-way, Book of Maps 2007, Page 907 Wake County Register of Deeds); and on the East, South and West by Lot 7 Old Mill Village;(Deed Book 12505, Page 317 and Book of Maps 2005, Page 2121 Wake County Register of Deeds); and being more particularly described as follows:

Beginning at a new iron pipe in the Southern right-of-way of said Old Mill Village Drive, said iron being South 62 degrees 50 minutes 44 seconds East 167.20 feet from an iron pipe being the intersection of the Southern right-of-way of said Old Mill Village Drive and the Eastern right-of-way of Mason Street (60' public right-of-way); thence along said southern right-of-way of Old Mill Village Drive, 130.07 feet along a curve to the right having a radius of 470.00 feet, chord bearing of South 48 degrees 55 minutes 07 seconds East and chord distance of 129.66 feet to an existing iron pipe; thence along said Southern right-of-way Old Mill Village Drive, South 40 degrees 59 minutes 28 seconds East 23.67 feet to a new iron pipe set, said iron being the Northeast corner of Lot 46 of proposed subdivision Lot 7; thence leaving said Southern right-of-way of Old Mill Village Drive along a common line with said Lot 7 Old Mill Village, South 49 degrees 00 minutes 35 seconds West 59.00 feet to a new iron pipe set, said iron being the Southeast corner of Lot 46; thence along a common line with said Lot 7 Old Mill Village, North 40 degrees 59 minutes 25 seconds West 10.83 feet to a new iron pipe set; thence along a common line with said Lot 7 Old Mill Village, 11.35 feet along a curve to the left having a radius of 125.00 feet, chord bearing of North 43 degree 35 minutes 27 seconds West and chord distance of 11.34 feet to a new iron pipe set; thence along a common line with said Lot 7 Old Mill Village, North 46 degrees 11 minutes 28 seconds West 124.51 feet to a new iron pipe set, said iron being the Southwest corner of Lot 41 of proposed subdivision of Lot 7; thence along a common line with said Lot 7 Old Mill Village, North 49 degrees 00 minutes 35 seconds East 52.92 feet to a new iron pipe set in the Southern right-of-way of said Old Mill Village Drive, the Point of Beginning.

Said Lots 41-46 contains 0.198 acres and is a portion of property found in Deed Book 12505, Page 317 and Book of Maps 2005, Page 2121, Wake County Register of Deeds and being Now or formerly North Carolina II LTD Partnership property.

SUB-LOTS 47-68 of LOT 7

That 0.753 acres of land lying in the Apex Township, Wake County, North Carolina, and being bounded on the North by Old Mill Village Drive (Variable width public right-of-way, Book of Maps 2007, Page 907 Wake County Register of Deeds); and on the East, South and West by Lot 7 Old Mill Village;(Deed Book 12505, Page 317 and Book of Maps 2005, Page 2121 Wake County Register of Deeds); and being more particularly described as follows:

Beginning at a new iron pipe in the Southern right-of-way of said Old Mill Village Drive, said iron being South 54 degrees 35 minutes 05 seconds East 340.89 feet from an iron pipe being the intersection of the Southern right-of-way of said Old Mill Village Drive and the Eastern right-of-way of Mason Street (60' public right-of-way); thence along said southern right-of-way of Old Mill Village Drive, South 40 degrees 59 minutes 25 seconds East 241.40 feet to an existing iron pipe; thence along said Southern right-of-way Old Mill Village Drive, 237.27 feet along a curve to the left having a radius of 530.00 feet, chord bearing of South 53 degrees 48 minutes 56 seconds East and chord distance of 235.30 feet to an existing iron pipe; thence along said Southern right-of-way Old Mill Village Drive, South 66 degrees 38 minutes 27 seconds East 111.64 feet to a new iron pipe set, said iron being the Northeast corner of Lot 68 of proposed subdivision Lot 7; thence leaving said Southern right-of-way of Old Mill Village Drive along a common line with said Lot 7 Old Mill Village, South 23 degrees 21 minutes 33 seconds West 59.00 feet to a new iron pipe set, said iron being the Southeast corner of Lot 68; thence along a common line with said Lot 7 Old Mill Village, North 66 degrees 38 minutes 29 seconds West 116.14 feet to a new iron pipe set; thence along a common line with said Lot 7 Old Mill Village, 263.71 feet along a curve to the right having a radius of 589.00 feet, chord bearing of North 53 degrees 48 minutes 53 seconds West and chord distance of 261.51 feet to a new iron pipe set; thence along a common line with said Lot 7 Old Mill Village, North 40 degrees 59 minutes 25 seconds West 193.64 feet to a new iron pipe set, said iron being the Southwest corner of Lot 47 of proposed subdivision of Lot 7; thence along a common line with said Lot 7 Old Mill Village, North 49 degrees 00 minutes 35 seconds East 59.00 feet to a new iron pipe set in the Southern right-of-way of said Old Mill Village Drive, the Point of Beginning.

Said Lots 47-68 contains 0.753 acres and is a portion of property found in Deed Book 12505, Page 317 and Book of Maps 2005, Page 2121, Wake County Register of Deeds and being Now or formerly North Carolina II LTD Partnership property.

SUB-LOTS 69-72 of LOT 7

That 0.138 acres of land lying in the Apex Township, Wake County, North Carolina, and being bounded on the North, South and West by Lot 7 Old Mill Village;(Deed Book 12505, Page 317 and Book of Maps 2005, Page 2121 Wake County Register of Deeds); and on the East by Now or formerly Portrait Homes Old Mill Village, LLC property (Deed Book 11679, Page 2425, Book of Maps 2007, Page 1236 Wake County Register of Deeds); and being more particularly described as follows:

Beginning at a new iron pipe in a common line with said Now or formerly Portrait Homes Old Mill Village, LLC property, said iron is South 23 degrees 21 minutes 34 seconds West 14.34 feet from an existing iron in North Tunstall Avenue Southern right-of-way (Variable width public right-of-way Book of Maps 2007. Page 1236 Wake County Register of Deeds); thence along said common line with Portrait Homes Old Mill Village, LLC property, South 23 degrees 21 minutes 34 seconds West 89.25 feet to a new iron pipe set; thence along a common line with said Lot 7 Old Mill Village, 13.89 feet along a curve to the left having a radius of 9.00 feet, chord bearing of South 69 degrees 09 minutes 19 seconds West and chord distance of 12.55 feet to a new iron pipe set; thence along a common line with said Lot 7 Old Mill Village, North 66 degrees 38 minutes 27 seconds West 52.50 feet to a new iron pipe set, said iron being the Southwest corner

of Lot 72 of proposed subdivision Lot 7; thence along a common line with said Lot 7 Old Mill Village, North 23 degrees 21 minutes 33 seconds West 98.00 feet to a new iron pipe set, said iron being the Northwest corner of Lot 69; thence along a common line with said Lot 7 Old Mill Village, South 66 degrees 38 minutes 27 seconds West 61.49 feet to a new iron pipe set in a common line with said Now or formerly Portrait Homes Old Mill Village, LLC property, the Point of Beginning.

Said Lots 69-72 contains 0.138 acres and is a portion of property found in Deed Book 12505, Page 317 and Book of Maps 2005, Page 2121, Wake County Register of Deeds and being Now or formerly North Carolina II LTD Partnership property.

**b. METES AND BOUNDS DESCRIPTION – OLD MILL VILLAGE –
LOT 7 (CLUBHOUSE & POOL SITE)**

That 1.655 acres of land lying in the Apex Township, Wake County, North Carolina, and being bounded on the North by Old Mill Village Drive (Book of Maps 2007, Page 907 Wake County Register of Deeds), North Tunstall Avenue (Variable width public right-of-way Book of Maps 2007, Page 1236 Wake County Register of Deeds) and Lots 41-68 of Proposed Lot 7 subdivision; on the East by Lots 69-72 of Proposed Lot 7 subdivision, Now or formerly Portrait Homes Old Mill Village, LLC property (Deed Book 116, Page 2425, Book of Maps 2007, Page 1236 Wake County Register of Deeds) and Center Heights Subdivision (Book of Maps 1996, Page 685 Wake County Register of Deeds); on the South by Now or formerly CSX property (Deed Book 687, Page 201 Wake County Register of Deeds) and Now or formerly Doris S. Denning Heirs, Cary Oil Company Inc property (Deed Book 1051 Page O-E Wake County Register of Deeds); and on the West by Mason Street (60' Public right of way); and being more particularly described as follows:

Beginning at a new iron pipe in the Southern right-of-way line of said Mason Street (60' wide public right-of-way), said point also being at the Northwest corner of said now or formerly Doris S. Denning Heirs, Cary Oil Company property, (all bearings are referenced to NC Grid NAD 83 North per Book of Maps 2001 Page 293 and all distances are horizontal ground unless other wise stated); thence from said beginning point along Eastern right-of-way of said Mason Street, 24.68 feet along a curve to the right having a radius of 2,369.37 feet, chord bearing of North 27 degrees 32 minutes 09 seconds East and chord distance of 24.68 feet to a new iron pipe set; thence along said Eastern right-of-way North 25 degrees 14 minutes 13 seconds East 42.37 feet to an existing iron pipe; thence along said Eastern right of way of Mason Street, 28.42 feet along a curve to the right having a radius of 18.50 feet, chord bearing of North 71 degrees 50 minutes 26 seconds East and chord distance of 25.71 feet to a new iron pipe set in the Southern right-of-way of said Old Mill Village Drive; thence along said Southern right-of-way of Old Mill Village Drive, South 64 degrees 09 minutes 12 seconds East 107.38 feet to an existing iron pipe; thence along said Southern right-of-way of Old Mill Village Drive, 59.94 feet along a curve to the right having a radius of 470.00 feet, chord bearing of South 60 degrees 30 minutes 00 seconds East and chord distance of 59.90 feet to a new iron pipe set, said iron being the Northwest corner for Lot 41 of proposed Lot 7 subdivision; thence leaving said Southern right-of-way of Old Mill Village Drive along a common line with said Lot 41, South 49 degrees 00 minutes 35 seconds West 52.92 feet to a new iron pipe set; thence along a common line with said Lots 41-46 proposed subdivision of Lot 7, South 46 degrees 11 minutes 28 seconds East 124.51 feet to a new iron pipe set; thence along said common line with Lots 41-46 proposed Lot 7 subdivision, 11.35 feet along a curve to the right having a radius of 125.00 feet, chord bearing of South 43 degrees 35 minutes 27 seconds East and chord distance of 11.34 feet to a new iron pipe set; thence along said common line of Lots 41-46 proposed Lot 7 subdivision, South 40 degrees 59 minutes 25 seconds East 10.83 feet to a new iron pipe set, said iron being the Southeast corner of Lot 46; thence along a common line with said Lot 46, North 49 degrees 00 minutes 35 seconds East 59.00 feet to a new iron pipe set in the Southern right-of-way of said Old Mill Village Drive; thence along said Southern right-of-way of Old Mill Village Drive, South 40 degrees 59 minutes 25 seconds East 30.00 feet to a new iron pipe set, said iron being the Northwest Corner of Lot 47 of proposed Lot 7 subdivision; thence along a common line with said Lot 47, South 49

degrees 00 minutes 35 seconds West 59.00 feet to a set iron pipe, said iron being the Southwest corner of Lot 47; thence along a common line with Lots 47-68 of proposed Lot 7 subdivision, South 40 degrees 59 minutes 25 seconds East 193.64 feet to a new iron pipe set; thence along said common line with Lots 47-68, 263.71 along a curve to the left having a radius of 589.00 feet, chord bearing of South 53 degrees 48 minutes 53 seconds East and chord distance of 261.51 feet to a new iron pipe set; thence along said common line with Lots 47-68, South 66 degrees 38 minutes 29 seconds East 116.14 feet to a new iron pipe set, said iron being the Southeast corner of Lot 68; thence along a common line with said Lot 68, North 23 degrees 21 minutes 33 seconds East 59.00 feet to a new iron pipe set in the Southern right-of-way of said Old Mill Village Drive; thence along said Southern right-of-way of Old Millage Village Drive, South 66 degree 38 minutes 27 seconds East 33.29 feet to an existing iron pipe in the Western right-of-way of North Tunstall Avenue; thence along said Western right-of-way North Tunstall Avenue, 2.46 feet along a curve to the right having a radius of 13.50 feet, chord bearing of South 10 degrees 26 minutes 01 seconds East and chord distance of 2.46 feet to an existing iron pipe; thence along said Western right-of-way of North Tunstall Avenue, 38.42 feet along a curve to the left having a radius of 67.00 feet, chord bearing of South 21 degrees 38 minutes 23 seconds East and chord distance of 37.90 feet to an existing iron pipe; thence along said Western right-of-way of North Tunstall Avenue, 9.63 feet along a curve to the right having a radius of 9.00 feet, chord bearing of South 07 degrees 17 minutes 05 seconds East and chord distance of 9.18 feet to an existing iron pipe; thence leaving said Western right-of-way of North Tunstall Avenue along a common line with Now or formerly Portrait Homes Old Mill Village, LLC property, South 23 degrees 21 minutes 34 seconds West 14.34 feet to a new iron pipe set, said iron also being the Northeast corner of Lot 69 proposed Lot 7 subdivision; thence along a common line with said Lot 69, North 66 degrees 38 minutes 27 seconds West 61.49 feet to a new iron pipe set; thence along a common line with Lots 69-72 of proposed Lot 7 subdivision, South 23 degrees 21 minutes 33 seconds West 98.00 feet to a new iron pipe set, said iron being the Southwest corner of Lot 72; thence along a common line with said Lot 72, South 66 degrees 38 minutes 27 seconds West 52.50 feet to a new iron pipe set; thence along a common line with said Lot 72, 13.89 feet along a curve to the left having a radius of 9.00 feet, chord bearing of North 69 degrees 09 minutes 19 seconds East and chord distance of 12.55 feet to a new iron pipe set in a common line with said Now or formerly Portrait Homes Old Mill Village, LLC property; thence along a common line with said Now or formerly Portrait Homes Old Mill Village, LLC property, South 23 degrees 21 minutes 31 seconds West 72.25 feet to an existing iron pipe; thence along a common line with said Now or formerly Portrait Homes Old Mill Village, LLC property, South 66 degrees 38 minutes 27 seconds East 55.00 feet to an existing iron pipe; thence along a common line with said Portrait Homes Old Mill Village, LLC property, North 23 degrees 21 minutes 34 seconds East 13.50 feet to an existing iron pipe; thence along a common line with said Now or formerly Portrait Homes Old Mill Village, LLC property, South 66 degrees 38 minutes 28 seconds East 4.46 feet to an existing iron pipe; thence along a common line with said Now or formerly Portrait Homes Old Mill Village, LLC property and a portion of the Western line of said Center Heights Subdivision, South 22 degrees 15 minutes 31 seconds West 86.02 feet to an existing iron pipe; thence along a common line with said Now or formerly CSX property, North 40 degrees 51 minutes 26 seconds West 564.32 feet to an existing iron pipe property; thence along a common line with Now or formerly Doris S. Denning Heirs property, North 40 degrees 49 minutes 40 seconds West 326.21 feet to an existing iron pipe; thence along said common line with Now or formerly Doris S. Denning heirs property, North 45 degrees 25

minutes 21 seconds West 129.04 feet to an existing iron pipe; thence along said common line with Now or formerly Doris S. Denning heirs property, North 50 degrees 58 minutes 00 seconds West 36.87 feet to an existing iron pipe; thence along said common line with Now or formerly Doris S. Denning heirs property, North 57 degrees 23 minutes 29 seconds West 40.10 feet to an existing iron pipe in the Southern right of way line of said Mason Street, the Point of Beginning.

Said Lot 7 contains 1.655 acres and is a portion of property found in Deed Book 12505, Page 317 and Book of Maps 2005, Page 2121, Wake County Register of Deeds and being Now or formerly North Carolina II LTD Partnership property.

**c. LEGAL DESCRIPTION – OLD MILL VILLAGE – THE
STERLINGS**

**LEGAL DESCRIPTION FOR
LOT 1
2.836 ACRES
PIN 0742619627
OLD MILL VILLAGE – APEX, NORTH CAROLINA**

That 2.836 acres of land lying in the White Oak Township, Wake County, Apex, North Carolina, and being bounded on the North by Old Raleigh Road (100' wide Public right of way); on the East by now or formerly George Calvin Atkins (Book of Maps 1987, Page 1049 Wake County Register of Deeds), Sawcut Lane (50' Public Right of way); and Lot 2 now or formerly Apex First Development, LLC property (Book of Maps 2005, Page 2121 Wake County Register of Deeds); on the South by Old Mill Village Drive (Variable width Public Right of Way); and on the West by said Mason Street (60' wide Public right of way); and being more particularly described as follows:

Beginning at an existing iron pipe in the Eastern right of way of said Mason Street (60' wide Public right of way), (all bearings are referenced to Book of Maps 2005 Page 2121 North and all distances are horizontal ground unless other wise stated); thence from said beginning point along Eastern right of way of Mason Street, North 41 degrees 34 minutes 07 seconds East, a distance of 173.28 feet to a point of intersection with the Southern right of way line of said Old Raleigh Road (100' wide Public right of way); thence leaving said Eastern right of way line Mason Street along said Southern right of way of Old Raleigh Road, North 82 degrees 56 minutes 07 seconds East, a distance of 28.28 feet to a point; thence along said Southern right of way of Old Raleigh Road, 259.52 feet along a curve to the left having a radius of 936.47 feet, chord distance of 258.69 feet and chord bearing of South 71 degrees 23 minutes 46 seconds East to an existing iron pipe; thence along said Southern right of way of Old Raleigh Road, 35.19 feet along a curve to the left having a radius of 1,161.43 feet, chord distance of 35.19 feet and chord bearing of North 78 degrees 33 minutes 56 seconds West to a point, said point also being the Northwest corner of said now or formerly George Calvin Atkins property; thence leaving said Southern right of way line of Old Raleigh Road a long a common line with said now or formerly George Calvin Atkins property, South 00 degrees 13 minutes 45 seconds East, a distance of 230.55 feet to a point; thence leaving said common line with Now or formerly George Calvin Atkins property along a common line with said Lot 2 Old Mill Village, South 60 degrees 16 minutes 25 seconds West, a distance of 21.73 feet to a point in the Northern right of way of said Sawcut Lane; thence along said Northern right of way of Sawcut Lane, 86.39 feet along a curve to the left having a radius of 55.00 feet, chord distance of 77.78 feet and chord bearing of North 85 degrees 59 minutes 24 seconds West to a point; thence along said Northern right of way of Sawcut Lane, South 49 degrees 00 minutes 35 seconds West, a distance of 135.00 feet to a point; thence along said Northern right of way line of Sawcut Lane to its intersection with said Old Mill Village Drive right of way, 14.12 feet along a curve to the right having a radius of 9.00 feet, chord distance of 12.71feet, and chord bearing of North 86 degrees 03 minutes 26 seconds West to a point; thence along said Northern right of way line of Old Mill Village Drive, 168.49 feet along a curve to the left having a radius of 530.00 feet, chord distance of 167.78 feet and chord bearing of North 50

degrees 13 minutes 53 seconds West to a point; thence along said Northern right of way line of Old Mill Village Drive, North 59 degrees 22 minutes 12 seconds West, a distance of 66.35 feet to a point; thence along said Northern right of way line of Old Mill Village Drive, North 55 degrees 03 minutes 38 seconds West, a distance of 39.27 feet; thence along said Northern right of way line of Old Mill Village Drive, North 58 degrees 26 minutes 34 seconds West, a distance of 1.24 feet to a point; thence along said Northern right of way line of Old Mill Village Drive, 15.07 feet along a curve to the left having a radius of 224.00 feet, chord distance of 15.07 feet and chord bearing of North 62 degrees 13 minutes 33 seconds West to a point; thence along said Northern right of way line of Old Mill Village Drive, North 64 degrees 09 minutes 12 seconds West, a distance of 14.28 feet to a point; thence along said Northern right of way line of Old Mill Village Drive to its intersection with the Eastern right of way with said Mason Street, 39.19 feet along a curve to the right having a radius of 36.19 feet, chord distance of 35.22 feet and chord bearing of North 34 degrees 03 minutes 26 seconds West to a point; thence along said Eastern right of way line of Mason Street, North 35 degrees 42 minutes 29 seconds East, a distance of 90.20 feet to an existing iron pipe in the Eastern right of way of said Mason Street, the Point of Beginning.

Said parcel contains 123,536 square feet or 2.836 acres.

d. VILLAGES OF APEX – OLD MILL VILLAGE – THE REGENTS

Lying in the Town of Apex, Wake County, North Carolina, and being more particularly described as follows:

All of the real property shown and described on the certain map on the proceeding page hereto and incorporated hereto entitled EXHIBIT A – VILLAGES OF APEX, OLD MILL VILLAGE – THE REGENTS, and SAVING AND EXCEPTING THEREFROM the easements and rights-of-way of public streets shown on said map.

(The remaining portion of this page of Exhibit A is intentionally left blank.)

e. **VILLAGES OF APEX – OLD MILL VILLAGE – THE STERLINGS**

Lying in the Town of Apex, Wake County, North Carolina, and being more particularly described as follows:

All of the real property shown and described on the certain map on the proceeding page hereto and incorporated hereto entitled **VILLAGES OF APEX – OLD MILL VILLAGE – THER STERLINGS**, and SAVING AND EXCEPTING THEREFROM the easements and rights-of-way of railroad tracks shown on said map.

(The remaining portion of this page of **Exhibit A** is intentionally left blank.)

4. LOTS THAT DECLARANT HAS CONVEYED TO BUILDERS AS OF THE FILING OF THE DECLARATION

Declarant owns all of the real property described in this **Exhibit A**, except for the Lots that have been conveyed to Builders as described in the table below.

Lots owned by a Builder as of the filing of the Declaration are as follows
(all Plat Book and Page recording references are to the Wake County, North Carolina Registry):

Builders	Lot No(s)	Deed Book	Pages
Oak City Homes, LLC	2, 11, 15, 22, 27 & 35	12942	1278 through 1282
Oak City Homes, LLC	69, 71 & 87	13007	1823 through 1827
Oak City Homes, LLC	85	13009	717 through 721
Cotton Custom Homes, Inc.	1, 20, 26, 31, 32 and 38	12934	253 through 256
Cotton Custom Homes, Inc.	73, 74 & 88	12973	208 through 211
Edwards Contracting Group, Inc.	4, 5, 13, 21, 24, 25 & 37	13127	1712 through 1714
Jerry Smith Builders, Inc.	3, 16, 18, 19 & 79	12994	1876 through 1878
Jerry Smith Builders, Inc..	10	13062	832 through 834
Cattano Construction, Inc.	6, 7, 8, 9 & 29	12931	2613 through 2615
Cattano Construction, Inc.	28, 30, 36	12937	1699 through 1701
Cattano Construction, Inc.	84	12965	922 through 924
Cattano Construction, Inc.	75 & 82	12973	2524 through 2526
Cattano Construction, Inc.	83	13055	2046 through 2049
Cattano Construction, Inc.	81	13058	209 through 211
Phelan Building & Development, Inc.	12, 14, 17 & 23	12924	905 through 907
Phelan Building & Development, Inc.	70, 72, 76, 77, 78, 80 & 86	12977	2253 through 2255
Kerr Smith Homes & Land, Inc.	34, 39, 40, 42 & 43	12949	1318 through 1322
Kerr Smith Homes & Land, Inc.	44, 45, 46, 47 & 48	12950	1298 through 1302
Kerr Smith Homes & Land, Inc.	49, 50, 51 & 52	12951	1166 through 1170
Kerr Smith Homes & Land, Inc.	33 & 41	12954	976 through 980
NHH, LLC	1 – 6	12530	2671 through 2676
NHH, LLC	27 – 40	12530	2671 through 2676
Horizon Homes, LLC	1 – 7, 18, 22-25	12807	1695 through 1697

(The remaining portion of this page of **Exhibit A** is intentionally left blank.)

EXHIBIT A

5. LOTS THAT SUCH BUILDERS HAVE CONVEYED TO OWNERS AS OF THE FILING OF THE DECLARATION

a. Conveyed from Builder Cattano Construction, Inc.

Builder Cattano Construction, Inc. owns all of the real property as described in Section 4 of this **Exhibit A**, except for the Lots that has been conveyed to the following Owners as described in the table below:

Lots owned by Page, Comito, Brantley, Caggia and Boren as of the filing of the Declaration are as follows:

(all Plat Book and Page recording references are to the Wake County, North Carolina Registry):

Owners	Lot No.	Deed Book	Pages
Page, Fred A. and Terry D.	83	13057	272 through 274
Comito, Stephanie and Greg	6	13233	294 through 296
Brantley, Helen and Eric	7	13221	2034 through 2036
Caggia, Peter & Kathryn	81	13290	1951 through 1953
Boren, James & Loida	28	13476	249 through 251
Tierone Bank Branch Banking and Trust Company			

b. Conveyed from Builder Cotton Custom Homes, Inc.

Builder Cotton Custom Homes, Inc. owns all of the real property described in Section 4 of this **Exhibit A**, except for the Lot that has been conveyed to the followings Owners as described in the table below.

Lots owned by Richman, Urbanowicz and Martinez as of the filing of the Declaration is as follows:

(all Plat Book and Page recording references are to the Wake County, North Carolina Registry):

Owner	Lot No.	Deed Book	Pages
Richman, David T. and Roberta J.	88	13206	635 through 637
Urbanowicz, John & Kelly	1	13368	1639 through 1641
Martinez, Paul A.	26	13576	1953 through 1955

c. Conveyed from Builder Oak City Homes, LLC

Builder Oak City Homes, LLC owns all of the real property described in Section 4 of this **Exhibit A**, except for the Lot that has been conveyed to the following Owners as described in the table below.

Lots owned by Gibson, Goodall, Stein and Fleming as of the filing of the Declaration is as follows:

(all Plat Book and Page recording references are to the Wake County, North Carolina Registry):

Owner	Lot No.	Deed Book	Pages
Gibson, David B.	85	13271	486 through 488
Goodall, David & Jennifer	27	13277	923 through 925
Stein, Ronald D.	89	13545	2502 through 2504
Fleming, Garry L.	2	13729	2459 through 2461

d. Conveyed from Jerry Smith Builders, Inc.

Builder Jerry Smith Builders, Inc. owns all of the real property described in Section 4 of this **Exhibit A**, except for the Lot that has been conveyed to Owners William and Martha Fay as described in the table below.

The Lot owned by Fay as of the filing of the Declaration is as follows:

(all Plat Book and Page recording references are to the Wake County, North Carolina Registry):

Owner	Lot No.	Deed Book	Pages
Fay, William & Martha	18	13296	1036 through 1038

e. Conveyed from Phelan Building & Development, Inc.

Builder Phelan Building & Development, Inc. owns all of the real property described in Section 4 of this **Exhibit A**, except for the Lot that has been conveyed to the following Owners as described in the table below.

Lots owned by Grimes, Brady and Solimando as of the filing of the Declaration is as follows:

(all Plat Book and Page recording references are to the Wake County, North Carolina Registry):

Owner	Lot No.	Deed Book	Pages
Grimes, Thomas & Dorothy	12	13320	2086 through 2088
Brady, Peter & Vicki	23	13358	1154 through 1156
Solimando, Helene	14	13542	2158 through 2160

f. Conveyed from NHH, LLC

Builder NHH, LLC owns all of the real property described in Section 4 of this **Exhibit A**, except for the Lot that has been conveyed to the following Owners as described in the table below.

Lots owned by Cruz and Fuller as of the filing of the Declaration is as follows:

(all Plat Book and Page recording references are to the Wake County, North Carolina Registry):

Owner	Lot No	Deed Book	Pages
Sylvia J. Fuller	37	13197	2755 though 2757
Carlos Cruz	39	13098	2160 through 2162

g. Conveyed from Horizon Homes, LLC

Builder Horizon Homes, LLC owns all of the real property described in Section 4 of this **Exhibit A**, except for the Lots that have been conveyed to the following Builders/Owners as described in the table below.

Lots owned by Bridges and Reward Builders as of the filing of the Declaration are as follows:

(all Plat Book and Page recording references are to the Wake County, North Carolina Registry):

Builder/Owner	Lot No	Deed Book	Pages
Bridges, Ulmer Z., III & Grace Bolles	6, 7 & 22	13773	515 though 519
Bridges, Mark A. & Diane			
Reward Builders, Inc.	1	13689	1923 through 1927
Reward Builders, Inc.	2, 3, 4 & 5	13689	1918 through 1922
Reward Builders, Inc.	25	13689	1928 through 1932

h. Conveyed from Kerr Smith Homes and Land, Inc.

Builder Kerr Smith Homes and Land, Inc. owns all of the real property described in Section 4 of this **Exhibit A**, except for the Lots that have been conveyed to the following Builders/Owners as described in the table below.

Lots owned by ALG as of the filing of the Declaration are as follows:

(all Plat Book and Page recording references are to the Wake County, North Carolina Registry):

Builder/Owner	Lot No	Deed Book	Pages
Ample Lending Group, LLC	34	12949	1323 through 1331
Ample Lending Group, LLC	39	12949	1332 through 1340
Ample Lending Group, LLC	40	12949	1341 through 1349
Ample Lending Group, LLC	42	12949	1350 through 1358
Ample Lending Group, LLC	43	12949	1359 through 1347
Ample Lending Group, LLC	44	12950	1303 through 1311
Ample Lending Group, LLC	45	12950	1312 through 1320
Ample Lending Group, LLC	46	12950	1321 through 1329

Ample Lending Group, LLC	47	12950	1330 through 1338
Ample Lending Group, LLC	48	12950	1339 through 1347
Ample Lending Group, LLC	49	12951	1171 through 1179
Ample Lending Group, LLC	50	12951	1180 through 1188
Ample Lending Group, LLC	51	12951	1189 through 1197
Ample Lending Group, LLC	52	12951	1198 through 1206
Ample Lending Group, LLC	33	12954	981 through 989
Ample Lending Group, LLC	41	12954	990 through 998

i. Conveyed from Edwards Contracting Group, Inc.

Builder Edwards Contracting Group, Inc. owns all of the real property described in Section 4 of this **Exhibit A**, except for the Lots that have been conveyed to the following Builders/Owners as described in the table below.

Lots owned by KSB as of the filing of the Declaration are as follows:

(all Plat Book and Page recording references are to the Wake County, North Carolina Registry):

Builder/Owner	Lot No	Deed Book	Pages
KS Bank Inc.	13, 21, 24, 25 & 37	13127	1749 through 1765
Beach, Michael and Winnie Beach	4	13776	461 through 463
Martin, Christine and Martin, Christopher	5	13776	1840 through 1842

(The remaining portion of this page of **Exhibit A** is intentionally left blank.)

EXHIBIT B

**METES & BOUNDS DESCRIPTION
LOT 7 (CLUBHOUSE & POOL SITE)
VILLAGES OF APEX – APEX, NORTH CAROLINA**

That 1.655 acres of land lying in the Apex Township, Wake County, North Carolina, and being bounded on the North by Villages of Apex Drive (Book of Maps 2007, Page 907 Wake County Register of Deeds), North Tunstall Avenue (Variable width public right-of-way Book of Maps 2007, Page 1236 Wake County Register of Deeds) and Lots 41-68 of Proposed Lot 7 subdivision; on the East by Lots 69-72 of Proposed Lot 7 subdivision, Now or formerly Portrait Homes Villages of Apex, LLC property (Deed Book 116, Page 2425, Book of Maps 2007, Page 1236 Wake County Register of Deeds) and Center Heights Subdivision (Book of Maps 1996, Page 685 Wake County Register of Deeds); on the South by Now or formerly CSX property (Deed Book 687, Page 201 Wake County Register of Deeds) and Now or formerly Doris S. Denning Heirs, Cary Oil Company Inc property (Deed Book 1051 Page O-E Wake County Register of Deeds); and on the West by Mason Street (60' Public right of way); and being more particularly described as follows:

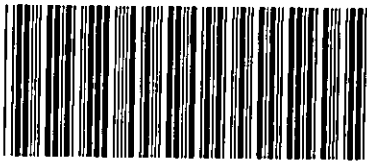
Beginning at a new iron pipe in the Southern right-of-way line of said Mason Street (60' wide public right-of-way), said point also being at the Northwest corner of said now or formerly Doris S. Denning Heirs, Cary Oil Company property, (all bearings are referenced to NC Grid NAD 83 North per Book of Maps 2001 Page 293 and all distances are horizontal ground unless other wise stated); thence from said beginning point along Eastern right-of-way of said Mason Street, 24.68 feet along a curve to the right having a radius of 2,369.37 feet, chord bearing of North 27 degrees 32 minutes 09 seconds East and chord distance of 24.68 feet to a new iron pipe set; thence along said Eastern right-of-way North 25 degrees 14 minutes 13 seconds East 42.37 feet to an existing iron pipe; thence along said Eastern right of way of Mason Street, 28.42 feet along a curve to the right having a radius of 18.50 feet, chord bearing of North 71 degrees 50 minutes 26 seconds East and chord distance of 25.71 feet to a new iron pipe set in the Southern right-of-way of said Villages of Apex Drive; thence along said Southern right-of-way of Villages of Apex Drive, South 64 degrees 09 minutes 12 seconds East 107.38 feet to an existing iron pipe; thence along said Southern right-of-way of Villages of Apex Drive, 59.94 feet along a curve to the right having a radius of 470.00 feet, chord bearing of South 60 degrees 30 minutes 00 seconds East and chord distance of 59.90 feet to a new iron pipe set, said iron being the Northwest corner for Lot 41 of proposed Lot 7 subdivision; thence leaving said Southern right-of-way of Villages of Apex Drive along a common line with said Lot 41, South 49 degrees 00 minutes 35 seconds West 52.92 feet to a new iron pipe set; thence along a common line with said Lots 41-46 proposed subdivision of Lot 7, South 46 degrees 11 minutes 28 seconds East 124.51 feet to a new iron pipe set; thence along said common line with Lots 41-46 proposed Lot 7 subdivision, 11.35 feet along a curve to the right having a radius of 125.00 feet, chord bearing of South 43 degrees 35 minutes 27 seconds East and chord distance of 11.34 feet to a new iron pipe set; thence along said common line of Lots 41-46 proposed Lot 7 subdivision, South 40 degrees 59 minutes 25 seconds East 10.83 feet to a new iron pipe set, said iron being the Southeast corner of Lot 46; thence along a common line with said Lot 46, North 49 degrees 00 minutes 35 seconds East 59.00 feet to a new iron pipe set in the Southern right-of-way of said Villages of Apex

Drive; thence along said Southern right-of-way of Villages of Apex Drive, South 40 degrees 59 minutes 25 seconds East 30.00 feet to a new iron pipe set, said iron being the Northwest Corner of Lot 47 of proposed Lot 7 subdivision; thence along a common line with said Lot 47, South 49 degrees 00 minutes 35 seconds West 59.00 feet to a set iron pipe, said iron being the Southwest corner of Lot 47; thence along a common line with Lots 47-68 of proposed Lot 7 subdivision, South 40 degrees 59 minutes 25 seconds East 193.64 feet to a new iron pipe set; thence along said common line with Lots 47-68, 263.71 along a curve to the left having a radius of 589.00 feet, chord bearing of South 53 degrees 48 minutes 53 seconds East and chord distance of 261.51 feet to a new iron pipe set; thence along said common line with Lots 47-68, South 66 degrees 38 minutes 29 seconds East 116.14 feet to a new iron pipe set, said iron being the Southeast corner of Lot 68; thence along a common line with said Lot 68, North 23 degrees 21 minutes 33 seconds East 59.00 feet to a new iron pipe set in the Southern right-of-way of said Villages of Apex Drive; thence along said Southern right-of-way of Old Millage Village Drive, South 66 degree 38 minutes 27 seconds East 33.29 feet to an existing iron pipe in the Western right-of-way of North Tunstall Avenue; thence along said Western right-of-way North Tunstall Avenue, 2.46 feet along a curve to the right having a radius of 13.50 feet, chord bearing of South 10 degrees 26 minutes 01 seconds East and chord distance of 2.46 feet to an existing iron pipe; thence along said Western right-of-way of North Tunstall Avenue, 38.42 feet along a curve to the left having a radius of 67.00 feet, chord bearing of South 21 degrees 38 minutes 23 seconds East and chord distance of 37.90 feet to an existing iron pipe; thence along said Western right-of-way of North Tunstall Avenue, 9.63 feet along a curve to the right having a radius of 9.00 feet, chord bearing of South 07 degrees 17 minutes 05 seconds East and chord distance of 9.18 feet to an existing iron pipe; thence leaving said Western right-of-way of North Tunstall Avenue along a common line with Now or formerly Portrait Homes Villages of Apex, LLC property, South 23 degrees 21 minutes 34 seconds West 14.34 feet to a new iron pipe set, said iron also being the Northeast corner of Lot 69 proposed Lot 7 subdivision; thence along a common line with said Lot 69, North 66 degrees 38 minutes 27 seconds West 61.49 feet to a new iron pipe set; thence along a common line with Lots 69-72 of proposed Lot 7 subdivision, South 23 degrees 21 minutes 33 seconds West 98.00 feet to a new iron pipe set, said iron being the Southwest corner of Lot 72; thence along a common line with said Lot 72, South 66 degrees 38 minutes 27 seconds West 52.50 feet to a new iron pipe set; thence along a common line with said Lot 72, 13.89 feet along a curve to the left having a radius of 9.00 feet, chord bearing of North 69 degrees 09 minutes 19 seconds East and chord distance of 12.55 feet to a new iron pipe set in a common line with said Now or formerly Portrait Homes Villages of Apex, LLC property; thence along a common line with said Now or formerly Portrait Homes Villages of Apex, LLC property, South 23 degrees 21 minutes 31 seconds West 72.25 feet to an existing iron pipe; thence along a common line with said Now or formerly Portrait Homes Villages of Apex, LLC property, South 66 degrees 38 minutes 27 seconds East 55.00 feet to an existing iron pipe; thence along a common line with said Portrait Homes Villages of Apex, LLC property, North 23 degrees 21 minutes 34 seconds East 13.50 feet to an existing iron pipe; thence along a common line with said Now or formerly Portrait Homes Villages of Apex, LLC property, South 66 degrees 38 minutes 28 seconds East 4.46 feet to an existing iron pipe; thence along a common line with said Now or formerly Portrait Homes Villages of Apex, LLC property and a portion of the Western line of said Center Heights Subdivision, South 22 degrees 15 minutes 31 seconds West 86.02 feet to an existing iron pipe; thence along a common line with said Now or formerly CSX property, North 40 degrees 51 minutes 26 seconds West 564.32 feet to an existing iron pipe

property; thence along a common line with Now or formerly Doris S. Denning Heirs property, North 40 degrees 49 minutes 40 seconds West 326.21 feet to an existing iron pipe; thence along said common line with Now or formerly Doris S. Denning heirs property, North 45 degrees 25 minutes 21 seconds West 129.04 feet to an existing iron pipe; thence along said common line with Now or formerly Doris S. Denning heirs property, North 50 degrees 58 minutes 00 seconds West 36.87 feet to an existing iron pipe; thence along said common line with Now or formerly Doris S. Denning heirs property, North 57 degrees 23 minutes 29 seconds West 40.10 feet to an existing iron pipe in the Southern right of way line of said Mason Street, the Point of Beginning.

Said Lot 7 contains 1.655 acres and is a portion of property found in Deed Book 12505, Page 317 and Book of Maps 2005, Page 2121, Wake County Register of Deeds and being Now or formerly North Carolina II LTD Partnership property.

(Additionally, please see the civil engineer maps of the Common Property for the Villages of Apex – South and North in Sections 1.a. and 2.a. of Exhibit A, which sections of Exhibit A and corresponding maps are incorporated as part of this Exhibit B).



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Yellow probate sheet is a vital part of your recorded document.
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