

WAKE COUNTY, NC 187
LAURA M RIDDICK
REGISTER OF DEEDS
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SUPPLEMENTAL DECLARATION
OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
VILLAGES OF APEX – NVR TOWNHOMES

THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF THE FLAG OF THE UNITED STATES OF AMERICA OR STATE OF NORTH CAROLINA.

THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF POLITICAL SIGNS.

This SUPPLEMENTAL DECLARATION OF CONVENANTS CONDITIONS AND RESTRICTIONS FOR VILLAGES OF APEX – NVR TOWNHOMES (“Declaration”) is made on the date hereinafter set forth by Apex First Development, LLC, a North Carolina limited liability company (hereinafter referred to as the “Declarant”) and NVR, Inc., a North Carolina corporation (“NVR”) as owner of certain of the property hereinafter defined.

WITNESSETH:

WHEREAS, Declarant is the developer of a North Carolina planned community more commonly known as Villages of Apex, which has been governed by that certain Master Declaration for Villages of Apex recorded in Book 013276, Page 400 in the Office of the Wake County Register of Deeds (“Master Declaration”), and, to the extent applicable, the Amended and Restated Master Declaration for Villages of Apex recorded in Book 013909, Page 01405 in the Office of the Wake County Register of Deeds (“Amended and Restated Master Declaration”); and

WHEREAS, Declarant is the owner of certain property (the “NVR Townhomes Property”) in Wake County, North Carolina, as more particularly shown and described in Exhibit A attached hereto.; and

WHEREAS, NVR is the owner of certain lots (the “NVR Lots”) located in and around and situated adjacent to the NVR Townhomes Property in Wake County, North Carolina, as more particularly shown and described in Exhibit B attached hereto; and

WHEREAS, Declarant, and NVR as owner of the NVR Lots, intend to subject the NVR Townhomes Property and NVR Lots to the Master Declaration, and to the extent applicable, the Amended and Restated Master Declaration; and

WHEREAS, pursuant to Article II, Section 2 of the Master Declaration and Amended and Restated Master Declaration, Declarant has the right, power, and authority to bring within the scheme, operation, and effect of the Master Declaration and/or the Amended and Restated Master Declaration, all or any portion of the NVR Townhomes Property described on Exhibit A hereto; and

WHEREAS, by its signature and consent hereinbelow to the Supplemental Declaration, NVR consents to and desires to bring within the NVR Lots to the scheme, operation, and effect of the Master Declaration and/or the Amended and Restated Master Declaration, all or any portion of the NVR Lots described on Exhibit B hereto; and

WHEREAS, Declarant, and NVR, intend for this Supplemental Declaration to inure to the benefit of and pass and run with the NVR Townhomes Property and NVR Lots, and each and every portion thereof, and to apply to and bond the NVR Townhomes Property and NVR Lots, and each and every successor in interest who may become an owner of a lot within the NVR Townhomes Property or NVR Lots or any portion thereof; and

WHEREAS, in addition to the Master Declaration and/or the Amended and Restated Master Declaration, Declarant intends to impose on the NVR Townhomes Property, and NVR upon the NVR Lots, mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the NVR Townhomes Property and NVR Lots and to establish a procedure for the overall development, administration, maintenance and preservation of the NVR Townhomes Property and NVR Lots; and

WHEREAS, Declarant, and NVR as owner of the NVR Lots, execute this Supplemental Declaration for the purpose of subjecting the NVR Townhomes Property and NVR Lots to the terms of the Master Declaration and/or the Amended and Restated Master Declaration; and

WHEREAS, it is the intent of the Declarant, and NVR as owner of the NVR Lots, hereby to cause the NVR Townhomes Property and NVR Lots to be subjected to the Master Declaration and/or Amended and Restated Master Declaration.

NOW, THEREFORE, Declarant, and NVR as owner of the NVR Lots, hereby declare that the NVR Townhomes Property and NVR Lots, shall be held, sold and conveyed subject to all of the easements, covenants, restrictions, rights and obligations as set forth in the Master Declaration and/or Amended and Restated Master Declaration, in addition to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, such real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

SECTION 1. “Additional Property” shall mean and refer to any property that is subject to the Master Plan and that is developed into residential townhome lots to be built by NVR, Inc. and is added to this Supplemental Declaration, along with the common areas, easements, and appurtenances related to such residential townhome lots.

SECTION 2. “Affiliate” shall mean: (i) any corporation at least fifty percent (50%) of the voting stock of which is owned or controlled by the Declarant, and any partnership, joint venture or limited liability company in which the Declarant has at least a fifty percent (50%) equity interest or an interest in at least fifty percent (50%) of the cash flow from such partnership, joint venture or company; or (ii) any person or entity owning or controlling at least a fifty percent (50%) equity interest in Declarant or an interest in at least fifty percent (50%) of the cash flow from Declarant.

SECTION 3. “Appropriate Local Governmental Authority” shall mean and refer to the Town of Apex, Wake County or other appropriate local governmental authority having jurisdiction over the Properties.

SECTION 4. "Architectural Review Committee" shall mean and refer to the Architectural Review Committee established and operated by the Master Association.

SECTION 5. "Association" or "Master Association" shall mean and refer to The Villages of Apex, Master Association, Inc., its successors and assigns, formed pursuant to and for the purposes expressed in the Master Declaration and/or the Amended and Restated Master Declaration.

SECTION 6. "Board of Directors" or "Board" shall mean the board of directors of the Association.

SECTION 7. "Builder" or "NVR" shall mean and refer to NVR, Inc., its successors and/or assigns ("NVR").

SECTION 8. "Bylaws" shall mean the bylaws of the Association as amended from time to time.

SECTION 9. "Committee" or "Townhome Committee" shall mean a committee of the Board of Directors elected or appointed as provided in Article IV.

SECTION 10. "Committee Member" shall mean a person elected or appointed to the Committee pursuant to Article IV.

SECTION 11. "Common Elements" or "Common Area" shall mean all real property owned by the Association (whether owned in fee or by way of license or easement) or leased by the Association, other than a Lot. The Common Elements initially to be owned by the Association shall include the easements herein established in favor of the Association.

Provided such property is free and clear of liens or development obligations and is not in need of immediate repair, Declarant may convey or cause to be conveyed to the Association from time to time and without the consent of the Association or its Members, additional property, which property may include any portion of the Properties, including any Additional Property annexed by Declarant pursuant to Article IX, Section 4 hereof. The Association shall accept any such conveyance of property and thereafter such property shall be held and maintained by the Association as Common Elements. Improvements, which may include, but shall not be limited to, roadways, sidewalks, landscaped areas, retention or detention ponds, erosion control devices, and open space, may be located on such additional Common Elements. Declarant does not contemplate the construction of any recreational improvements or amenities within the Common Elements (i.e., swimming pool, tennis courts, clubhouse, etc.), although certain recreational improvements are contemplated with respect to the Master Association Common Area, as hereinafter defined. Except as otherwise provided in Section 47F-3-113 of the Planned Community Act, the Association shall be required to promptly repair and replace any Common Elements that are damaged or destroyed.

SECTION 12. "Common Expense" shall mean and refer to any costs associated with the Maintenance performed under this Declaration that will be paid for by the Builder for each Lot it owns and each Owner by acceptance of a deed therefor for each Lot they own.

SECTION 13. "Declarant" shall mean and refer to Apex First Development, LLC, a North Carolina limited liability company, as well as its successors and assigns, pursuant to an express assignment or conveyance of any special declarant rights hereunder to such successor or assign, all of which rights, including Declarant's voting, easement and development rights, shall be assignable and may be apportioned on a lot-by-lot basis.

SECTION 14. "Declarant's Development Period" shall mean and refer to the period of time commencing on the date this Declaration is recorded in the Office of the Register of Deeds, Wake County, North Carolina, and continuing until the later of: (i) one year after Declarant or any Affiliate shall cease to own any portion of the Properties; or (ii) for so long as Declarant shall have the right to annex any portion of the Additional Property pursuant to the provisions of Article IX, Section 4 hereof; or (iii) for so long as the Properties are controlled by the Declarant during the Declarant Control Period, as defined in the Declaration; or (iv) Declarant files with the Wake County Register of Deeds a release of its rights hereunder.

SECTION 15. "Supplemental Declaration" shall mean and refer to this Supplemental Declaration Of Covenants, Conditions, Restrictions And Easements For Villages Of Apex – NVR Townhomes.

SECTION 16. "Lot" shall mean and refer to any separately numbered portion of the NVR Townhomes Property and/or NVR Lots shown on any now or subsequently recorded subdivision plat of the NVR Townhomes Property and/or NVR Lots intended for use or used as a site for a dwelling and shall include any Units or other improvements constructed thereon and "Lots" shall refer to all such lots collectively. Declarant hereby reserves the right to reconfigure, from time to time and without the consent of any other Owner or the Members of the Association, the boundaries of any Lot or Lots owned by Declarant or NVR (with only the consent of NVR) and to thereby create additional Lots, eliminate existing Lots or create additional Common Elements; provided, however, in no event shall the NVR Townhomes Property contain a greater number of Lots than the number from time to time permitted by the Appropriate Local Governmental Authority. If Declarant elects to exercise its right to revise the boundaries of one or more Lots owned by Declarant, Declarant shall record a revised plat of the affected Lot or Lots. Upon the recording by Declarant of such a revised plat, each lot shown on the previously recorded plat or plats, the boundaries of which are revised by the revised plat, shall cease to be a "Lot" as defined in this Supplemental Declaration and each newly configured lot shown on the revised plat shall be a "Lot" as defined in this Supplemental Declaration.

SECTION 17. "Lot Boundaries" If the side boundary of a Lot abuts the side boundary of another Lot, after construction of Units on such Lots, the side boundary shall be a line consistent with and along the center of the firewall(s) separating each such Unit from the abutting Unit. In the event of any discrepancy between the boundaries of a Lot, as described herein, and the boundaries of such Lot when shown on the recorded plats, the description of the boundaries of the Lot set forth herein shall control. All of the area within the boundaries of each

Lot, as herein described, and as shown and depicted on the recorded plats, shall for all purposes constitute real property which may be owned in fee simple, subject to the terms, provisions, liens, charges, covenants, easements and restrictions of this Supplemental Declaration.

SECTION 18. "Amended and Restated Master Declaration" shall mean and refer to that certain Amended and Restated Master Declaration for Villages of Apex recorded in Book 13909, Page 1405, in the Office of the Register of Deeds, Wake County, North Carolina.

SECTION 19. "Master Plan" shall mean and refer to the plan(s) for The Villages of Apex, as such project and property are described in the Master Declaration and/or Amended and Restated Master Declaration, now or hereafter approved by the Appropriate Local Governmental Authority, as such plan(s) may be from time to time amended and approved.

SECTION 20. "Member" shall mean and refer to every person or entity that holds Membership with voting rights in the Association.

SECTION 21. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, as hereinafter defined, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 22. "Planned Community Act" shall mean and refer to the provisions of Chapter 47F of the General Statutes of North Carolina.

SECTION 23. "Properties" shall mean and refer to all of the property as described in Exhibit A and Exhibit B, which property is hereby made subject to the terms, covenants and conditions of this Supplemental Declaration, as amended from time to time, together with any Additional Property hereafter subjected to the Supplemental Declaration in accordance with its terms.

SECTION 24. "Townhome Common Areas" or "Townhome Common Elements" shall mean Common Area or Common Elements located in the Properties or existing and being maintained primarily for the benefit of the Owners, as determined by the Declarant.

SECTION 25. "Unit" shall mean a structure constructed on a Lot for which (i) a certificate of occupancy has been issued by the Appropriate Local Government Authority, and (ii) which has been sold to an Owner who is not Declarant or NVR.

ARTICLE II

RELATION TO MASTER DECLARATION AND/OR THE AMENDED AND RESTATED MASTER DECLARATION AND OVERVIEW

The Properties shall be held and conveyed subject to the Master Declaration and/or the Amended and Restated Master Declaration, the Articles of Incorporation and Bylaws of the Association, and the rules promulgated pursuant to the foregoing, all as amended from time to

time. Without limiting the generality of the foregoing, the Owners shall enjoy the easement rights, voting rights and access to the Common Elements and shall comply with the maintenance obligations, pay assessments, comply with the use restrictions, architectural control provisions and be subject to the easements contained in the Master Declaration and/or the Amended and Restated Master Declaration, rules promulgated pursuant thereto, the Articles and Bylaws.

In addition, NVR Townhomes require rules and restrictions, easements, maintenance, insurance and party wall provisions that may not exist in, or differ from provisions in, the Master Declaration and/or the Amended and Restated Master Declaration. Declarant has adopted this Supplemental Declaration at the request of NVR to address such matters. Further, recognizing that the Owners are best suited to address matters that are specific to the NVR Townhomes on the Properties, the Declarant has caused the Association to form the Committee. After the Declarant Development Period, the Owners will elect the Committee and through such elections will control the matters that are specific to the Units as set forth herein. The Committee will establish the services that the Association will provide to the Owners, the insurance to be maintained by the Association with respect to the Units, the assessments to be levied in connection with the services and insurance and will set rules and take enforcement action related to the foregoing. Matters not specific to the Units and not covered herein will continue to be governed by the Board of Directors, which will be elected (after the Declarant Development Period) by all Members, including the Owners.

ARTICLE III

OWNERS' USE OF COMMON ELEMENTS

In addition to the Owners' rights and responsibilities regarding the use of Common Elements as set forth in the Master Declaration and/or the Amended and Restated Master Declaration, the following use restrictions shall apply to the Townhome Common Areas and Townhome Common Elements:

SECTION 1. RULES AND REGULATIONS. The Committee may establish reasonable rules and regulations concerning the use of the Lots, Units, and Townhome Common Elements (including, but not limited to, the improvements located on the Townhome Common Elements). The Committee may impose reasonable monetary fines and other sanctions for the violation of established rules and regulations and for the violation of any of the covenants and conditions contained in this Supplemental Declaration, which monetary fines and sanctions shall be assessed and collected pursuant to the provisions of Articles V hereof. Copies of such rules and regulations and the amendments thereto shall be furnished by the Committee to all Owners prior to the effective date thereof. All such rules and regulations shall be binding upon the Owners, their families, tenants, guests, invitees and agents until and unless such regulation, rule or requirement shall be specifically overruled, canceled, or modified by the Committee or by at least two-thirds (2/3) of the Owners; provided, however, during Declarant's Development Period, Declarant must also consent to such action.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS

In addition to the membership and voting rights set forth in the Master Declaration and/or the Amended and Restated Master Declaration, each Owner, including Declarant and NVR shall have the following membership and voting rights:

SECTION 1. ELECTION OF THE COMMITTEE. After the Declarant Development Period, the Owners shall elect the Committee in accordance with the provisions of the resolution of the Board of Directors that created the Committee. Such resolution may not be amended or repealed without the approval of at least sixty-seven percent (67%) of the Owners.

SECTION 2. DECLARANT'S RIGHT TO REPRESENTATION ON THE COMMITTEE. During Declarant's Development Period, Declarant shall have the right to designate and select all members of the Committee. Whenever Declarant shall be entitled to designate and select any person or persons to serve on the Committee, the manner in which such person or persons shall be designated shall be as provided in the rules of the Committee. Declarant shall have the right to remove any person or persons selected by it to act and serve on the Committee. Declarant shall also have the right to replace such person or persons with another person or persons to act and serve on the Committee for the remainder of the unexpired term of any Committee Member so removed. Any Committee Member selected by Declarant need not be an Owner or tenant of an Owner. Except as otherwise provided in the rules of the Committee with respect to the filling of vacancies, any Committee Member which Declarant is not entitled to select shall be elected by the Committee Members.

ARTICLE V

COVENANT FOR MAINTENANCE AND ASSESSMENTS

SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. The Master Declaration and/or the Amended and Restated Master Declaration provides for the levy and collection of assessments. In addition to the assessments in the Master Declaration and/or the Amended and Restated Master Declaration, there is hereby imposed on each Lot on which a Unit is constructed an obligation to pay: (a) to the Association annual assessments, specific assessments, special assessments, working capital assessments, and other assessments and charges provided for herein, such assessments to be established and collected as hereinafter provided, together with interest, and late fees, costs and reasonable attorney's fees; and (b) to the appropriate governmental taxing authority: (i) a pro rata share of ad valorem taxes levied against the Common Elements; and (ii) a pro rata share of assessments for public improvements to or for the benefit of the Common Elements, if the Association shall default in the payment of either or both for a period of six (6) months. All assessments and charges provided for herein, together with interest, and late fees, costs and reasonable attorney's fees, shall be a charge on the Lot of each Owner and shall be a continuing lien upon the Lot against which each such assessment is made in favor of the Association (or the taxing authority, as applicable) when a claim of lien is filed of record in the Office of the Clerk of Superior Court, Wake County, North Carolina. Each such assessment and charge, together with interest, any late

fees, costs and reasonable attorney's fees, shall, in addition to being a lien against the Lot of such Owner, also be the personal obligation of the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

SECTION 2. PURPOSE OF ASSESSMENTS.

(a) The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties. In particular, the assessments shall be used for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Townhome Common Elements or the Lots. This includes, but is not limited to: (i) the costs of repairs, replacements and additions;(ii)the cost of labor, equipment, materials, management and supervision;(iii) the payment of any taxes assessed against the Townhome Common Elements;(iv) the maintenance of open spaces and streets within the Townhome Common Elements which have not been accepted for dedication by a public authority, roadway medians and islands (including medians and islands located in any dedicated rights-of-way within the Properties):(v) drives within the Townhome Common Elements; (vi) the procurement and maintenance of insurance in accordance with the Bylaws and this Supplemental Declaration; (vii) the maintenance of stormwater drainage facilities, dams and ponds, including retention or detention ponds, or other, if any, located within the Townhome Common Elements or otherwise serving the Properties; (viii) the costs of maintaining, repairing and restoring the Lots and any other portions of the Properties that the Association is obligated or permitted to maintain in accordance with the terms of this Supplemental Declaration; (ix) the payment of charges for garbage collection and municipal water and sewer services furnished to the Townhome Common Elements; (x) the employment of attorneys and other agents to represent the Association when requested by the Committee; (xi) the provision of adequate reserves for the replacement of capital improvements including, without limiting the generality of the foregoing, paving, roofing and any other major expense for which the Association is responsible; (xii) and such other needs as may arise.

(b) The Committee shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Townhome Common Elements and those other portions of the Properties that the Committee may be obligated to maintain. Such reserve fund is to be established out of regular assessments for Common Expense.

(c) All monies collected by the Committee based on assessments required herein or established by the Committee shall be treated as the property of the Association. The Association shall apply such monies to the payment of any expense of the Association in the performance or exercise of any right, duty or obligation provided for in this Supplemental Declaration, resolutions of the committee and the rules of the Committee. As monies for any assessment are paid to the Association by any Owner, the same may be commingled with monies paid to the Association by the other Members. The Association shall account for such monies separate from monies from other sources. Although all funds and Common surplus, including other assets of the Association, and any increments thereto or profits derived therefrom shall be

held for the benefit of the Owners, no Owner shall have the right to assign, hypothecate, pledge or in any manner transfer his interest therein, except as an appurtenance to his Lot. When any Owner shall cease to be an Owner by reason of his divestment of ownership of his Lot, by whatever means, the Association shall not be required to account to such Owner for any share of the fund or assets of the Association, or which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Properties.

SECTION 3. ADOPTION OF BUDGET AND FIXING OF ANNUAL ASSESSMENTS; MAXIMUM ANNUAL ASSESSMENT. The Committee shall establish an annual budget and fix the amount of the annual assessments in advance for the following year. Within thirty (30) days of the adoption of any proposed budget, the Committee shall provide to all of the Owners a summary of the budget.

SECTION 4. SPECIAL ASSESSMENTS. In addition to the annual assessments authorized above, the Committee may levy, in any calendar year, a special assessment for the purpose of defraying in whole or in part the costs of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Elements. This includes fixtures and personal property related thereto, for replacement of Unit roofs, siding or similar major repairs, or for other extraordinary or nonrecurring Committee needs, provided that any such assessment shall have the assent of the Owners of at least two-thirds (2/3) of the Lots who are voting, in person or by proxy, at a meeting duly called for this purpose. During the Declarant's Development Period, Declarant must also consent to such action. All special assessments shall be fixed at a uniform rate for all Lots and, in the discretion of the Committee, may be collected on an annual, semiannual, or monthly basis.

SECTION 5. SPECIFIC ASSESSMENTS. The Committee may levy specific assessments against individual Owners (i) for the purpose of paying for the costs of any construction, reconstruction, repair or replacement of any damaged component of the Common Areas, or of any monument, landscaping, detention pond, Unit, or other thing maintained by the Association, which is occasioned by the act(s) of individual Owner(s) and not the result of ordinary wear and tear, (ii) for the payment of fines, penalties or other charges imposed against an individual Owner relative to such Owner's failure to comply with the terms and provisions of this Supplemental Declaration, or any rules or regulations promulgated hereunder, or (iii) for any common expenses, other than expenses for the maintenance of the Common Areas, which benefit less than all of the Lots or which significantly disproportionately benefit all Lots (which expenses may be specially assessed equitably among all of the Lots which are benefited according to the benefit received). Failure of the Committee to exercise its authority under this section shall not be grounds for any action against the Association, the Committee, or the Board of Directors and shall not constitute a waiver of the Committee's right to exercise its authority under this section in the future with respect to any expenses.

SECTION 6. WORKING CAPITAL ASSESSMENTS. In addition to the annual assessments authorized above, at the time of the closing of the first sale of each Lot to a purchaser other than a Builder, the purchaser(s) thereof shall pay to the Association an amount equal to two-twelfths (2/12ths) of the then current annual assessment established by the

Committee. Such funds shall be used by the Association to establish a working capital fund, the purpose of which is to help insure that the Association will have sufficient monies available to meet its initial operational needs, unforeseen expenditures or long-term capital improvements and repairs to the Common Elements and Units. No such payments made into the working capital fund shall be considered advance or current payment of regular assessments. All monies paid into the working capital fund shall be held and administered by the Association and administered by the Committee in accordance with the terms of the Supplemental Declaration as well as the Master Declaration and/or Amended and Restated Master Declaration and Bylaws.

SECTION 7. EFFECT OF NONPAYMENT OF ASSESSMENTS AND REMEDIES OF THE ASSOCIATION. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a rate from time-to-time established by the Committee not to exceed eighteen percent (18%) per annum. In addition, the Association may charge a reasonable late fee, the amount of which shall be established from time to time by the Committee, for assessments not paid within thirty (30) days after the due date. After notice and an opportunity to be heard, the Committee may suspend privileges or services provided by the Association (except rights of access 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, which suspension may continue without further hearing until the delinquency is cured. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien created herein against the Lot in the same manner as prescribed by the laws of the State of North Carolina for the foreclosure of a mortgage or deed of trust on real estate under power of sale. Any late fees, interest, costs and reasonable attorney's fees for representation of the Association in such action or foreclosure shall be assessed against such Lot and the assessment shall be the personal obligation of such Lot Owner and a lien against such Lot as provided in Article V of this Supplemental Declaration. No Owner may waive or otherwise escape liability for the assessment provided for herein by nonuse of the Common Elements or abandonment of his Lot, nor shall damage to or destruction of any improvements on any Lot by fire or other casualty result in any abatement or diminution of the assessments provided for herein.

SECTION 8. PROPERTY SUBJECT TO MASTER DECLARATION AND/OR AMENDED AND RESTATED MASTER DECLARATION. All of the property which is now a part of the Properties, and all of the Additional Property which, pursuant to Article IX, Section 4 hereof, is hereafter annexed to and made a part of the Properties, shall be subject to the Master Declaration and/or the Amended and Restated Master Declaration. The Master Declaration and/or the Amended and Restated Master Declaration provides that the Owner(s) of each Lot shall be Members of the Association. The Master Declaration and/or the Amended and Restated Master Declaration provides that all of the Members of the Association are required to pay assessments to the Association to be used for the maintenance, preservation and administration of certain Common Elements and other purposes set forth in the Master Declaration and/or the Amended and Restated Master Declaration. Any and all assessments to be paid under this Supplemental Declaration are in addition to the assessments paid under the Master Declaration and/or the Amended and Restated Master Declaration.

ARTICLE VI

MAINTENANCE

In addition to the maintenance provisions set forth in the Master Declaration and/or the Amended and Restated Master Declaration, the following maintenance provisions shall also apply to the Owners, Townhome Common Areas, Townhome Common Elements, Lots and Properties:

SECTION 1. MAINTENANCE TO BE PERFORMED BY THE ASSOCIATION.

(a) The Association shall maintain the Townhome Common Elements located on the Properties. This includes maintaining the grounds of the Townhome Common Elements which are subject to assessments hereunder as follows: (i) mow, seed and fertilize all grassed areas; (ii) mulch; (iii) remove dead or diseased trees or shrubs if such trees or shrubs existed at the time Declarant initially conveyed the Townhome Common Elements on which the tree or shrub is located; (iv) replace dead or diseased trees or shrubs planted by the Declarant or the Association; and (v) prune all trees or shrubs planted by the Declarant or the Association. The Association shall maintain the drives and walkways that are a part of the Townhome Common Elements, but shall not maintain any drives and walkways located on any Lot. The Association shall maintain the roof of each Unit and the exterior of each Unit as follows: paint, repair, replace and care for gutters, downspouts, exterior building surfaces (including siding, doors, garage doors, windows, shutters, steps, patios, decks and porches, but excluding, however, glass surfaces, window and door screens, storm doors, if any, all of which shall be maintained by the Owners in accordance with the provisions of Section 2 below).

The Association shall be responsible for maintaining the grass, plants, shrubs, trees, and landscaping installed by the Declarant, NVR or the Association on the Lots (hereinafter the "Yard Improvements"). The Association also may maintain any Yard Improvements that are installed by an Owner with prior written approval and consent of the Committee (but only to the extent that such consent specifically provides that the Association will maintain such added landscaping), provided, however, that: (i) if an Owner installs a fence on their Lot, the Association shall have no responsibility for maintaining any Yard Improvements inside of such fence; (ii) the Association's maintenance obligation shall not include the obligation to replace any plant, shrub or tree installed by any Owner for any reason; and (iii) the Association shall not be responsible for repair or replacement of any Yard Improvements when such repair or replacement is necessitated by work done by or at the request of any Owner or any utility company or Appropriate Local Government Authority. If a common irrigation system that provides irrigation for the Lots is installed by Declarant, NVR, or the Association, the Association shall maintain, repair and operate such system in good condition, subject to the requirements of the Appropriate Local Government Authorities, including, but not limited to, any restrictions imposed or recommended during periods of drought. If individual irrigation systems are installed to serve the Lots individually, the Committee may set rules for the times at which such irrigation systems will water a Lot's landscaping, the duration of such watering, and an Owner's use of such system, all without incurring any cost for water or other utility charge. The Association may provide pest control or exterminator services to the Units.

In addition, the Association, upon a determination by the Committee, in its sole discretion, that such maintenance will benefit the Properties, the Owners, the Lots or their residents, may elect to provide maintenance or to provide enhanced maintenance for any property that serves, is adjacent to or otherwise impacts on the Properties, including, without limitation, any landscaped medians or other areas located within the public rights of way adjacent to the Properties. All costs incurred by the Association in connection with the maintenance described in this Section 1(a) shall constitute a Common Expense. If the need for any maintenance, repair or replacement required hereunder to be performed by the Association is caused through the willful or negligent act of the Owner, his family, guests or invitees, or is caused by fire, lightning, windstorm, hail, explosion, riot, riot attending strike, civil commotion, aircraft, vehicles or smoke, as the foregoing are defined and explained in North Carolina Standard Fire and Extended Coverage insurance policies, and the cost of such maintenance, repair or replacement cannot be recovered by the Association through insurance maintained by the Association, the cost of such maintenance, replacement or repairs shall be assessed exclusively against such Lot and the assessment shall be the personal obligation of such Lot Owner and a lien against such Lot as provided in Article V of this Supplemental Declaration. The Committee may require the payment of such assessment prior to performing such maintenance.

(b) The Association shall have the right, but not the obligation, from time to time, as determined by the Committee in its sole discretion, to make reasonable modifications to the scope of the services to be provided by the Association.

(c) Neither the Association nor the Committee shall be liable to any Owner, or any Owner's occupant, guest, or family member, for any damage or injury caused in whole or in part by failure of either to discharge its responsibilities. No diminution or abatement of assessments shall be claimed or allowed by reason of an alleged failure of either the Association or the Committee to take some action or perform some function required to be taken or discomfort arising from the making of repairs or improvements which are the responsibility of the Association. The Association shall repair incidental damage to any Lot resulting from performance of work which is the responsibility of the Association.

(d) If the Committee determines that the need for maintenance, repair, or replacement of property that is to be maintained, repaired or replaced by the Association in accordance with the terms of this Supplemental Declaration is caused through the willful or negligent act of an Owner, or the family, guests, lessees, invitees or pets of any Owner, and is not covered or paid for by insurance maintained by or on behalf of the Association, in whole or in part, then the Association may perform such maintenance, repair, or replacement at such Owner's sole cost and expense, and assess all costs thereof as an individual assessment against such Owner and such Owner's Lot; provided, however, during Declarant's Development Period, any such action by the Association shall require the Declarant's prior written consent. Such Owner may request a hearing by the Committee, or an adjudicatory panel appointed by the Committee, to determine responsibility for the damages if the monetary amounts involved are less than or equal to the jurisdictional amount established for small claims under North Carolina law. The hearing shall afford notice of the charge to the Owner, an opportunity for the Owner to be heard and to present evidence, and a notice of decision by the Board. The Committee or its

appointees may not assess liability in an amount in excess of the jurisdictional amount established for small claims under North Carolina law. If the monetary amounts involved are greater than the jurisdictional amount established for small claims under North Carolina law, liability of any Owner shall be determined as otherwise provided by law.

(e) In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Lot at all reasonable times to perform maintenance as provided in this Article.

SECTION 2. MAINTENANCE TO BE PERFORMED BY THE OWNERS. Except as otherwise provided in Section 1 above, each Owner shall be liable and responsible for maintenance, repair and replacement 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. With respect to any plantings installed by an Owner on such Owner's Lot, which are not maintained by the Association in accordance with the provisions of Article VI, Section 1, such Owner shall be responsible for the maintenance of such plantings as follows: irrigate, mulch, replace seasonal landscaping, replace dead or diseased trees and shrubs and prune all trees and shrubs. If the Owner neglects or fails to maintain his or her Lot and/or his or her dwelling, the Committee may cause the Association to provide such exterior maintenance and all cost incurred by the Association in providing such maintenance shall be assessed exclusively against such Lot and the assessment shall be the personal obligation of such Lot Owner and a lien against such Lot as provided in Article IV of this Supplemental Declaration; provided, however, that the Committee shall first give written notice to the Owner of the specific items of exterior maintenance or repair the Committee intends to cause the Association to perform and the Owner shall have ten (10) days from the date of mailing of said notice within which to perform such exterior maintenance. The determination as to whether an Owner has failed to maintain his or her Lot and/or dwelling in a good and sightly condition consistent with other Lots and dwellings within the Properties shall be made by the Committee, in its sole discretion.

ARTICLE VII

RESTRICTIONS

In addition to the restrictions set forth in the Master Declaration and/or the Amended and Restated Master Declaration, the use of the Lots, Units and Townhome Common Areas shall be restricted as follows:

SECTION 1. PARKING. Parking for residents is to be only in the specific parking areas and parking locations as approved by the Committee. Specific parking shall be designated by the Committee for visitors of residents, and residents shall be responsible for ensuring that any visitors they invite to park within the Properties 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 Declarant during Declarant's Development Period, or any member of the Committee thereafter. Only operative automobiles, non-commercial trucks and passenger vehicle vans and mini-vans, may be parked on the Properties, and any such vehicle must be parked in parking spaces approved by the Committee. No boats, trailers, recreational vehicles, campers or other similar equipment or vehicles shall be parked or stored within the Common Elements, or on any Lot. No recreational vehicles, campers or other like equipment or vehicles shall be located or installed on any Lot or the Common Elements to be used as a residence. Commercial vehicles shall not be parked or stored on any Lot or the Common Elements within the Properties; provided, however, the foregoing shall not be construed to prevent the temporary, nonrecurring parking of such vehicle on a Lot for a period not to exceed 24 hours or during any period the Lot is being serviced by such vehicle.

SECTION 2. FLAGS. Except for the flag of the United States of America, flown in accordance with applicable law and regulations and subject to reasonable restrictions and standards adopted by the Committee, no flags may be displayed upon any Lot; and,

SECTION 3. RESIDENTIAL TRASH RECEPTACLES. No residential trash receptacle shall be visible from the exterior of a Unit. Residential trash receptacles are only to be maintained within structures approved by the Committee. Residential trash receptacles are to be maintained in a manner so as to prevent odor, rodents, scavengers, or other offensive detection. No person shall burn rubbish, garbage or any other form of solid waste on any Lot or on Common Areas or within the right of way of any street within the Property.

SECTION 4. LIGHTING. Exterior lighting visible from the street shall not be permitted except for: (1) approved lighting as originally installed on a Unit; (2) one approved decorative post light; (3) pathway lighting; (4) street lights in conformity with an established street lighting program for the Properties; (5) seasonal decorative lights, which must be removed promptly and which are subject to rules and restrictions that may be adopted by the Committee; or (6) front house illumination of model homes.

SECTION 5. MAILBOXES. No change or addition, other than by the Committee shall be made to the design, materials or location of the original mailboxes installed by Declarant or the Builder for the benefit of the Units.

SECTION 6. WINDOW AIR-CONDITIONERS. No air-conditioner shall be installed in any window of any building located on any Unit, nor shall any air-conditioner be installed on any building located on any Unit so that the same protrudes through any exterior wall of such building.

SECTION 7. WINDOW TREATMENTS. Except as may be otherwise approved by the Architectural Review Committee, all window treatments visible from the outside of a Unit shall be white or off-white in color. No bed sheets, newspaper, tin foil, or similar materials may be used as window treatments.

SECTION 8. NO TIMESHARING. No Unit shall be made subject to any type of timesharing, fraction-sharing or similar program whereby the exclusive use of the Unit rotates among members of the program on a fixed or floating time schedule over a period of years.

SECTION 9. NO COMBINATION OF UNITS. Contiguous Lots may not be combined together without prior written consent of the Committee. If the Committee approves a combination, such combination shall thereafter be deemed to be a single Lot for all purposes of this Supplemental Declaration, except that notwithstanding the foregoing, the amount of assessments for which such single Lot shall be thereafter liable shall be equal to the total assessments for which all of the Lots which were so combined would have been liable had such combination not taken place.

SECTION 10. DECKS, PATIO AREAS, STOOPS, DRIVEWAYS AND SHEDS. Grills, patio furniture, potted plants and other items may be permitted on decks and patio areas, subject to local ordinances and any rules promulgated by the Committee with respect thereto. Any items placed on front stoops and driveways must comply with any rules promulgated by the Committee with respect thereto. Detached storage buildings, sheds or animal pens are prohibited.

SECTION 11. PLAY EQUIPMENT. Recreational and playground equipment shall not be placed on any Lot.

SECTION 12 . LEASES OF UNITS. Any Lease Agreement between an Owner and a lessee for the lease of such Owner's Unit shall provide that the terms of the Lease shall be subject in all respects to the provisions of the Master Declaration and/or the Amended and Restated Master Declaration, this Supplemental Declaration, and all rules and regulations promulgated by the Committee pursuant to this Supplemental Declaration and that any failure by the lessee to comply with the terms of such document shall be a default under the terms of the lease. All leases of Units shall be in writing and shall have a term of not less than twelve (12) months. All lease agreements for the lease of Units must first be delivered to the Association or Committee, as the case may be, for its approval prior to the commencement of any initial lease term. Unimproved Lots may be leased to Builders for use in connection with building, sales and similar activities, subject to the prior approval of the Committee. Any such lease of a Lot shall be subject to the provisions of this Section 4 regarding the lease of a Unit.

SECTION 13. INTERPRETATION. In all cases, the covenants and restrictions herein contained shall be construed and interpreted in a manner which, in the opinion of the Committee, will best effect the intent of the general plan of development and maintenance herein set forth. Subject to the terms of this Article and the Board's duty to exercise business judgment and reasonableness, the Board may modify, cancel, limit, create exceptions to, or expand the restrictions contained herein and may create, modify and enforce reasonable rules governing the use of the Property consistent with the law and with other provisions in this Supplemental Declaration. The Board shall send notice to all Owners concerning any new or amended restrictions or rules prior to the date that such restrictions or rules go into effect. For this purpose, notice may be sent to each Owner by U.S. mail, hand delivery, electronic

telecommunication or publication in a community notice or newsletter delivered or mailed to each Owner.

ARTICLE VIII

EASEMENTS AND PARTY WALLS

SECTION 1. EASEMENTS FOR ENCROACHMENT AND OVERHANG. There shall be reciprocal appurtenant easements for encroachment and overhang as between each Lot and such portion or portions of the Common Elements adjacent thereto or as between adjacent Lots due to intentional overhangs by roofs of up to eighteen (18) inches and due to unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of this Supplemental Declaration). Except for overhangs by roofs of eighteen (18) inches or less, in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, occupant, or the Association. An easement is expressly reserved in favor of the Association, the Declarant and the Owner(s) of each Lot served for the installation, maintenance, inspection, repair and replacement of heating, ventilation and air conditioning equipment on, under, over and upon those portions of the Properties on which such equipment is initially located by Declarant or a Builder, and an easement on, over and upon such additional portions of the Properties as may be reasonably necessary to access such equipment.

SECTION 2. EASEMENTS FOR MAINTENANCE. Declarant hereby expressly reserves a perpetual easement for the benefit of Declarant and the Association across such portions of the Properties, determined in the sole discretion of the Declarant and the Association, as are necessary to allow for the maintenance required or permitted by this Supplemental Declaration. In addition, an easement is hereby reserved in favor of the Owner(s) of each Lot for the maintenance, inspection, repair and replacement of improvements located on such Owner's Lot on, over and upon those portions of the Properties extending five (5) feet, as measured from any point on the common boundary between each Lot and any adjacent portion of the Common Elements or as between adjacent Lots, as the case may be, along a line perpendicular to such boundary at such point, so long as the use of the easement property for such purpose does not unreasonably interfere with the intended use of the easement property. Such maintenance shall be performed with a minimum of interference with the quiet enjoyment of Owners' property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the holder of the easement causing the damage at such easement holder's sole expense. The easements provided in Section 1 and Section 2 are in addition to those easements contained in the Master Declaration and/or the Amended and Restated Master Declaration.

SECTION 3. GENERAL RULES OF LAW TO APPLY. Each wall built as part of the original construction of the Units, which serves and separates any two adjoining Units, and each fence built as part of the original construction of the Units, which serves and separates any two adjoining patio areas, shall constitute a "Party Wall" and, to the extent not inconsistent with the provisions of this section, the general rules of law regarding party walls and liability for property damage due to negligent or willful acts or omissions shall apply thereto. The cost of reasonable

repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in equal proportions. If a party wall is destroyed or damaged by fire or other casualty, then any Owner who has benefited by the wall may restore it, and the other Owner who is benefited by the wall shall contribute one-half of the cost of restoration, without prejudice, however, to the right of any Owner to call for a larger contribution from any other Owner under any rule of law regarding liability for negligent or willful acts or omissions.

SECTION 4. REPAIR AND MAINTENANCE. The cost of reasonable maintenance of a party wall shall be shared equally by the Owners of the Lots on which the Units that share the party wall are located. Provided, however, each Owner is responsible for usual and routine maintenance (for example, painting) of the portion of any party wall on the inside of such Owner's Unit.

SECTION 5. DESTRUCTION BY FIRE OR OTHER CASUALTY. If a party wall is destroyed or damaged by fire or other casualty, any Owner of a Lot on which a Unit which shares such party wall is located may restore or repair it, and the Owners of the other Lot on which the Unit that shares the restored or repaired party wall is located shall, within twenty-one (21) days of the receipt of a request for payment and invoices showing the cost of such restoration or repair, contribute one-half (1/2) the cost of the restoration or repair thereof (or reimburse the Owner who has paid such costs one half (1/2) of such costs), without prejudice, however, to the right of any such Owner to demand a larger contribution from the other Owner under any rule of law regarding liability for negligent or willful acts or omissions.

SECTION 6. EXPOSURE TO ELEMENTS. Notwithstanding any other provision of this Section, an Owner of a Lot on which a Unit that shares a party wall is located who, by such Owner's negligent or willful act or omission, damages or causes the common party wall to be exposed to the elements shall bear the entire cost of the necessary repair or restoration.

SECTION 7. ASSIGNMENT OF RIGHT OF CONTRIBUTION. The right of any Owner to contribution from any other Owner under this section with respect to all matters occurring prior to the transfer of title of the Lot to a subsequent Owner may be retained by the transferring Owner; provided that such retention must be evidenced by a written agreement between the transferring Owner and the subsequent Owner. Such written agreement must be delivered to the Association; otherwise, the right of contribution shall be transferred to the subsequent Owner. The amount owed shall constitute the personal debt of the Owner from whom it is owed, and the Owner to whom the contribution is owed shall have all remedies available at law or in equity to enforce such Owner's right of contribution. An Owner's obligation for contribution is appurtenant to and shall run with title to such Owner's Lot.

SECTION 8. ESTOPPEL CERTIFICATE. An Owner, who desires to sell a Lot, or the prospective purchaser of such Lot, may request the Owners of the other Lot which shares that party wall to provide a certificate stating whether or not such certifying Owner has any right or obligation of contribution with respect to such party wall against the Owner who desires to sell. Each certifying Owner from whom such certificate is requested shall, within ten (10) days after receipt of a written request for certification, furnish same to the requesting Owner or purchaser, as applicable, either confirming that no right of contribution exists or stating the amount of and

reasons for the contribution claimed against the requesting Owner. If no response is timely given, such failure shall be conclusively deemed to be a response that no right of contribution exists. A certificate signed by any one or more of the Owners of a Lot which shares a party wall with the Lot of the requesting Owner shall be conclusive evidence of its contents with respect to all other Owners of that Lot and with respect to third parties.

SECTION 9. EASEMENT FOR REPAIR AND MAINTENANCE. Each Owner of a Lot on which is located a Unit that shares a party wall and such Owner's contractors and subcontractors shall have an easement and right of entry upon the Lot on which is located the other Unit that shares the party wall to the extent reasonably necessary to repair, restore, maintain or reconstruct the party wall. Such repair, restoration, maintenance or reconstruction shall be done expeditiously and, promptly upon completion of the work, the Owner on whose behalf the work is being done shall repair any damage caused as a result thereof.

SECTION 10. ARBITRATION. In the event of any dispute arising concerning a party wall, or under the provisions of this Section, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE IX

GENERAL PROVISIONS

SECTION 1. ENFORCEMENT. The Owner(s) of each Lot shall be governed by and shall comply with the provisions of the Master Declaration and/or the Amended and Restated Master Declaration, the Bylaws of the Association, this Supplemental Declaration and all rules and regulations adopted pursuant hereto, as any of the same are now constituted or as they may be amended from time to time. The remedies set forth in the Master Declaration and/or the Amended and Restated Master Declaration and the procedures stated therein shall apply to the enforcement of this Supplemental Declaration.

SECTION 2. SEVERABILITY. Invalidation of any one of the covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

SECTION 3. AMENDMENT. The covenants and restrictions of this Supplemental Declaration shall run and bind the land for a term of twenty (20) years from the date this Supplemental Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless terminated as hereinafter provided. This Supplemental Declaration may be terminated only with the consent of at least eighty percent (80%) of the Owners. This Supplemental Declaration may be amended with the consent of at least sixty-seven percent (67%) of the Owners. The foregoing notwithstanding, however, during Declarant's Development Period, this Supplemental Declaration may not be amended or terminated without Declarant's consent; and no termination and no amendment relating to the maintenance or ownership of any permanent detention or retention pond shall be effective unless reviewed and approved by the governmental office having jurisdiction for watershed protection.

In addition, no alteration, amendment or modification of the rights and privileges granted and reserved hereunder in favor of Declarant or of the obligations imposed herein on Declarant shall be made without the written consent of Declarant being first had and obtained; no alteration, amendment or modification of the rights and privileges granted and reserved hereunder in favor of Builders or of the obligations imposed herein on Builders shall be made without the written consent of Builders being first had and obtained and no alteration, amendment or modification of any easement rights established in favor of any property not a part of the Properties shall be effective without the written consent of the owner(s) of such property. Any notice of termination or amendment must: (1) be executed on behalf of the Association by its duly authorized officers; (2) contain an attestation by the officers executing the instrument on behalf of the Association that the requisite Owner and Declarant approval has been obtained and is evidenced by written acknowledgment(s) signed by the Owners approving the termination or amendment and, if required, Declarant, and that such acknowledgments have been made a part of the Minute Book of the Association; and (3) be properly recorded in the Office of the Register of Deeds, Wake County, North Carolina. For the purpose of this section, annexation of Additional Property by Declarant pursuant to Section 4 of this Article shall not constitute an "amendment." In the event this Supplemental Declaration is terminated in accordance with the provisions hereinabove provided, Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner for any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay a pro rata share of the cost of the maintenance of all permanent retention or detention ponds. Notwithstanding the foregoing, during Declarant's Development Period, Declarant may at any time unilaterally amend this Supplemental Declaration to terminate or restrict any right reserved hereunder to Declarant or to correct obvious errors and omissions herein; and after Declarant's Development Period, the Committee, may amend this Supplemental Declaration as shall be necessary, in its opinion, to correct obvious errors and omissions herein.

SECTION 4. ANNEXATION.

(a) Except as provided in Subsection (b) of this Section 4, Article IX, additional residential property and Common Elements may be annexed to the Properties only with the consent of two-thirds (2/3) of the Owners who are voting, in person or by proxy, at a meeting duly called for such purpose; provided, however, during Declarant's Development Period, Declarant must also consent to such action.

(b) All or any portion of the Additional Property may be annexed by the Declarant without the consent of Members within twenty (20) years of the date of this instrument. Declarant shall have no obligation of any kind to annex any or all of the Additional Property and, should Declarant elect to annex all or any portion of the Additional Property, Declarant shall have no obligation of any kind to annex the Additional Property in any particular sequential order. Should Declarant elect to annex all or any portion of the Additional Property and accordingly to subject such property to the terms and conditions of this Supplemental Declaration, with regard to all or any part of the Additional Property annexed by Declarant, Declarant shall have the right to make such complementary additions and/or modifications of the covenants and restrictions contained in this Supplemental Declaration as may be necessary or

convenient, in the sole judgment of the Declarant, to reflect the different character, if any, of the added properties and as are not inconsistent with the plan of this Supplemental Declaration, but such additions and/or modifications shall have no effect upon the properties previously subjected to this Supplemental Declaration. With regard to any portion of the Additional Property not annexed by Declarant, Declarant makes no representations with regard to the use of such property or the exterior appearance, design, size or intended purpose of any improvements now or hereafter erected on such property.

SECTION 5. AMPLIFICATION. The Provisions of this Supplemental Declaration are amplified by the rules of the Committee; but no such amplification shall alter or amend any of the rights or obligations of the Owners set forth in this Supplemental Declaration. Declarant intends that the provisions of this Supplemental Declaration on the one hand, and the rules of the Committee on the other, be interpreted, construed, and applied to avoid inconsistencies or conflicting results. If such conflict necessarily results, however, Declarant intends that the provisions of this Supplemental Declaration control anything contained in the rules of the Committee.

SECTION 6. ASSIGNABILITY OF RIGHTS RESERVED BY DECLARANT. Any and all of the rights reserved by Declarant hereunder may be assigned by Declarant to any Affiliate, Builder or successor Declarant with respect to any portion of the Properties conveyed to such Affiliate, Builder or successor Declarant.

ARTICLE X

INSURANCE AND CASUALTY LOSSES

In addition to the insurance and casualty losses covenants set forth in the Master Declaration and/or the Amended and Restated Master Declaration, the following provisions shall also apply to the Owners, Townhome Common Areas, Townhome Common Elements and Properties.

SECTION 1. ADDITIONAL INSURANCE THAT MAY BE MAINTAINED BY THE ASSOCIATION. The Association, in the sole discretion of the Committee, may elect to procure and maintain casualty insurance covering the "Insured Lot Improvements," as hereinafter defined in the amount determined annually by the insurance company affording such coverage to be equal to 100% of the current replacement cost (exclusive of excavation, foundations, drives, streets, parking facilities and other items normally excluded from casualty insurance policies) of such Insured Lot Improvements. As used herein, "Insured Lot Improvements" shall mean and refer to all insurable buildings and other improvements located on the Lots which are subject to assessment hereunder, excluding, however, all items of personal property. Such policy shall contain an Agreed Amount Endorsement or an Inflation Guard Endorsement, if available. Coverage for the Insured Lot Improvements shall afford protection against: (a) loss or damage by fire and other hazards covered by the standard extended coverage endorsement; and (b) such other risks as from time to time customarily shall be covered with respect to buildings similar in construction, location and use, including, but not limited to, vandalism and malicious mischief. The costs of procuring and maintaining any such insurance shall be a Common Expense and shall be assessed equally against each Lot, unless the Committee, in its sole discretion, elects to

assess each Lot based on the relative replacement costs of the Insured Lot Improvement located on each Lot. The Committee may direct that the insurance company providing coverage determine the replacement costs of the Insured Lot Improvements located on each Lot for such purpose, but such determination shall not limit the amount of insurance proceeds to which any Owner shall be entitled to receive on account of any insured loss, in the event such Owner otherwise would be entitled to proceeds in excess of the replacement costs determined by the insurance company. The provisions of this Supplemental Declaration are intended to guide the Committee and its members in the acquisition of insurance and are not in any way intended, and shall not be used, to limit any coverage acquired by the Association or any Owner. If the Association, in the discretion of the Committee, after having previously purchased coverage described in this Section 1, elects at any time not to maintain the coverage described in this Section 1, the Association shall provide all Owners with at least sixty (60) days prior written notice of such change in policy.

SECTION 2. PREMIUMS. Except as may otherwise be expressly provided in Section 4 above, Premiums for such insurance shall be common expenses of the Association. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

SECTION 3. MISCELLANEOUS. All such insurance coverage obtained by the Committee shall be written in the name of the Association, as trustee for the respective benefited parties, as further identified below. Such insurance shall comply with the following provisions:

- (a) All policies shall be written with a company authorized to do business in North Carolina.
- (b) Exclusive authority to settle losses under policies obtained by the Committee shall be vested in the Committee.
- (c) In no event shall the insurance coverage obtained and maintained by the Association be brought into contribution with insurance purchased by individual Owners, Occupants, or their Mortgagees, and the insurance carried by the Association shall be primary.
- (d) All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement if these are reasonably available and all insurance policies shall be reviewed annually.
- (e) The Committee shall be required to make every reasonable effort to secure insurance policies that will provide for the following:
 - (1) A waiver of subrogation by the insurer as to any claims against the Committee, its manager, the Owners and their respective tenants, servants, agents and guests;
 - (2) A waiver by the insurer of its rights to repair and reconstruct instead of paying cash;

- (3) That no policy may be canceled, invalidated, or suspended on account of any one or more individual Owners;
- (4) That no policy may be canceled, subjected to nonrenewal, invalidated, or suspended on account of any defect or the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within a cure may be effected by the Association, its manager, any Owner or Mortgagee;
- (5) That any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and
- (6) That no policy may be canceled, subjected to nonrenewal, or substantially modified without at least thirty (30) days prior written notice to the Association.

SECTION 4. INDIVIDUAL INSURANCE. By virtue of taking title to a Lot subject to the terms of this Supplemental Declaration, each Owner acknowledges that except to the extent that the Committee may elect to provide coverage pursuant to Section 4 above, the Association has no obligation to provide any insurance for any portion of individual Lots. To the extent that the Committee elects not to provide such coverage, each Owner of a Lot covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket "all-risk" casualty insurance on the Lot and all structures constructed thereon, and a liability policy covering damage or injury occurring on a Lot in an amount not less than the minimum amount from time to time established by the Committee. The casualty insurance shall cover loss or damage by fire and other hazards commonly insured under an "all-risk" policy, if reasonably available, including vandalism and malicious mischief, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. If "all-risk" coverage is not reasonably available, Owners shall obtain, at a minimum, fire and extended coverage. If the Committee elects to provide coverage pursuant to Section 4 above, each Owner of a Lot covenants and agrees with all other Owners and with the Association that each Owner shall maintain at such Owner's expense a policy or policies of insurance insuring all personal property located on or used in connection with the Lot, additional living expense in the event of a casualty, personal liability in an amount not less than the minimum amount from time to time established by the Committee, and any alterations, improvements and betterments to the Lot not covered by insurance maintained by the Association. The Owner of each Lot, by virtue of taking title to a Lot, shall be responsible for the payment of any deductible required to be paid in connection with any coverage of such Lot or the improvements located thereon maintained by the Association. Authority to adjust losses under policies obtained by an Owner shall be vested in the Owner. The losses under policies obtained by an Owner shall be vested in the Owner. The Committee shall have the right, but not the obligation, at the expense of the Owner, to acquire the insurance required to be maintained by the Owner if the Owner fails to provide a valid policy to the Association with a prepaid receipt annually, on or before a date established by the Committee, or within ten (10) days after receipt by the Owner of a written request from the Committee. If the Committee acquires insurance on behalf of any Owner, the cost thereof shall be assessed against the Owner as an individual assessment and shall be a lien on such Owner's Lot.

SECTION 5. DAMAGE OR DESTRUCTION TO IMPROVEMENTS INSURED BY THE ASSOCIATION.

a. In General. Immediately after damage or destruction by fire or other casualty to all or any portion of any improvement covered by insurance written in the name of the Association, the Committee or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. The Committee shall have the enforcement powers specified in this Supplemental Declaration necessary to enforce this provision.

b. Repair and Reconstruction of Improvements Located on the Common Property. Any damage or destruction to improvements located on Common Property that are covered by insurance written in the name of the Association shall be repaired or reconstructed unless, within sixty (60) days after the casualty, the Owners of at least eighty percent (80%) of the Lots otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Committee shall, without the necessity of a vote of the Owners, levy a special assessment against all Owners in proportion to the number of Lots owned by such Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association. If the Committee determines in the manner described above that the damage or destruction will not be repaired or reconstructed and no alternative improvements are authorized, then the property shall be restored to its natural state and maintained as an undeveloped portion of the Properties by the Association in a neat and attractive condition. Immediately after damage or destruction by fire or other casualty to all or any portion of any improvement covered by insurance written in the name of the Association, the Committee or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. The Committee shall have the enforcement powers specified in this Supplemental Declaration necessary to enforce this provision.

c. Repair and Reconstruction of Improvements Located on a Lot. Any damage or destruction to improvements located on a Lot that are covered by insurance written in

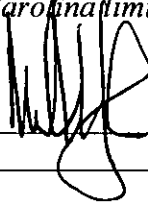
the name of the Association shall be repaired or reconstructed unless, within sixty (60) days after the casualty, (i) the Owners of at least eighty percent (80%) of the Lots and (ii) Owner(s) of the Lot(s) impacted by the casualty otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Committee within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Owner(s) of such Lot shall be required to pay to the Association such additional necessary sums, prior to commencement of repairs or reconstruction or as work progresses, as directed by the Committee, in the discretion of its Committee. The Owner(s) of such Lot shall be personally obligated to pay to the Association any amounts by which the costs of repair and reconstruction exceed the proceeds of insurance collected by the Association, and the Committee shall be entitled to specifically assess such Lot in accordance with the provisions of this Supplemental Declaration in order to collect such sums. If the funds available from insurance attributable to such Lot exceed the costs of repair or reconstruction, or if the improvements are not repaired or reconstructed, excess insurance proceeds shall be paid to the Owner(s) of such Lot and their Mortgagee(s) as their interests may appear. If the Committee determines in the manner described above that the damage or destruction will not be repaired or reconstructed and no alternative improvements are authorized, then the insurance proceeds shall be used first to restore the property to its natural state and the Lot thereafter shall be maintained as an undeveloped portion of the Properties by the Association in a neat and attractive condition.

SECTION 6. DAMAGE AND DESTRUCTION -- INSURED BY OWNERS. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be repaired by the Owner(s) thereof within seventy-five (75) days after such damage or destruction or, where repairs cannot be completed within seventy-five (75) days, they shall be commenced within such period, thereafter diligently pursued and completed within a reasonable period of time; provided, however, within sixty (60) days after the casualty, (i) the Owners of at least eighty percent (80%) of the Lots and (ii) Owner(s) of the Lot(s) impacted by the casualty may agree that such repairs or reconstruction need not be made or may authorize alternative improvements. If the Committee determines in the manner described above that the damage or destruction will not be repaired or reconstructed and no alternative improvements are authorized, then the insurance proceeds shall be used first to restore the property to its natural state and the Lot thereafter shall be maintained as an undeveloped portion of the Properties by the Owner(s) thereof in a neat and attractive condition.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this instrument to be executed in its name and its corporate seal hereto affixed as of the ____ day of _____, 2014. By signing below as Declarant under the Master Declaration and/or the Amended and Restated Master Declaration, Declarant evidences its consent to this Supplemental Declaration as required by Art. II, Sec. 6 of the Master Declaration and/or the Amended and Restated Master Declaration.

CONSENT OF DECLARANT

APEX FIRST DEVELOPMENT, LLC
a North Carolina limited liability company

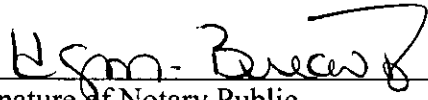
By: , its manager/member

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I certify that the following person personally appeared before me this day, acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

Michael J. Howington, as Manager of Apex First Development, LLC
a North Carolina limited liability company.

DATE: march, 10, 2014

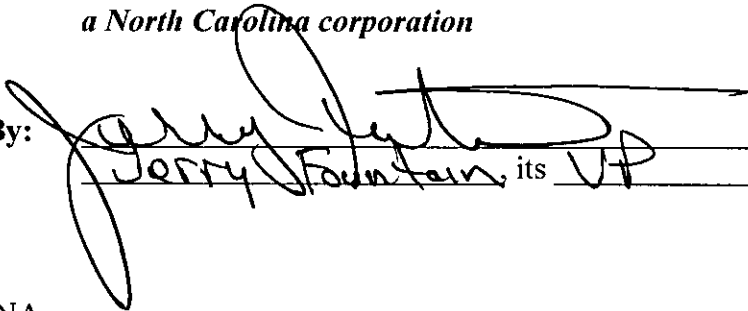

Signature of Notary Public
Printed Name: Holly M. Breault
My Commission expires: 4.10.2017

[NOTARY PUBLIC STAMP OR SEAL]

HOLLY M BREAUT
NOTARY PUBLIC
WAKE COUNTY, NC
My Commission Expires 4-10-2017

CONSENT OF OWNER

NVR, INC.
a North Carolina corporation

By: 
Jerry Fountain, its VP

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I certify that the following person personally appeared before me this day, acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

Jerry Fountain, as VP of NVR, Inc., a North Carolina corporation.

DATE: March, 10, 2014


Signature of Notary Public
Printed Name: Stacy R. Blalock
My Commission expires: 3.19.18

[NOTARY PUBLIC STAMP OR SEAL]

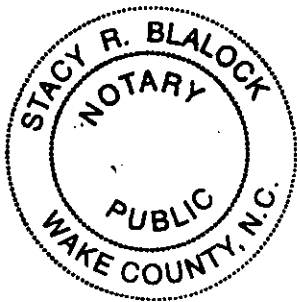


EXHIBIT A

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

All of Lots 53-56, and 61-68, The Villages of Apex, North Village – Phase IA, as shown on the map recorded in Book of Maps 2008, Page 79, Wake County Registry.

EXHIBIT B

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

All of Lots 57-60, The Villages of Apex, North Village – Phase IA, as shown on the map recorded in Book of Maps 2008, Page 79, Wake County Registry.



BOOK:015601 PAGE:00181 - 00210



Please retain yellow trailer page

It is part of the recorded document and must be submitted with the original for re-recording.

Laura M. Riddick
Register of Deeds
Wake County Justice Center
300 South Salisbury Street, Suite 1700
Raleigh, NC 27601

- ☐ New Time Stamp
- ☐ \$25 Non-Standard Fee
- ☐ Additional Document Fee
- ☐ Additional Reference Fee

This Customer Group

_____ # of Time Stamps Needed

This Document

_____ 30 # of Pages J