

Drawn by and HOLD FOR:
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**DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
THE ENCLAVE ASSOCIATION, INC.**

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DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
THE ENCLAVE ASSOCIATION, INC.

THIS DECLARATION is made on the date hereinafter set forth by **WKB RALEIGH, LLC**, a North Carolina Limited Liability Company (hereinafter referred to as "Declarant"):

W I T N E S S E T H:

WHEREAS, Declarant is the owner of approximately 25.39 acres of land located in the City of Raleigh, House Creek Township, Wake County, North Carolina, and shown and described as **Lot 4** on the map recorded in **Book of Maps 1999, Page 1332**, Wake County Registry;

WHEREAS, Declarant desires to develop within such property a subdivision, to be known as The Enclave At Inman Park (hereinafter sometimes referred to the "Subdivision"), containing 102 attached single-family dwellings, and such other uses as may be consistent with the zoning of property;

WHEREAS, Declarant desires to provide for the maintenance and upkeep of certain Limited Common Area (as hereinafter defined), to provide for enforcement of covenants and restrictions applicable to the Subdivision and to provide a vehicle for ensuring that storm water drainage systems and facilities within the Subdivision are properly maintained, and, to that end, desires to subject the property within the Subdivision to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof;

WHEREAS, Declarant has deemed it advisable to create an organization to own, maintain and administer the Limited Common Area, to administer and enforce covenants and restrictions applicable to the Subdivision, and to collect and disburse the assessments and charges hereinafter created, and Declarant has therefore incorporated under North Carolina law as a non-profit corporation, **THE ENCLAVE ASSOCIATION, INC.**, for the purpose of exercising the aforesaid functions;

NOW, THEREFORE, Declarant hereby declares 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 this Declaration, each and all of which shall run with the 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

Section 1. "Act" shall mean and refer to Chapter 47F of the North Carolina General Statutes, known as the North Carolina Planned Community Act.

Section 2. "Association" shall mean and refer to **THE ENCLAVE ASSOCIATION, INC.**, a North Carolina non-profit corporation, its successors and assigns.

Section 3. "Declarant" shall mean and refer to **WKB RALEIGH, LLC**, a North Carolina Limited Liability Company. It shall also mean and refer to any person, company or entity to whom or which Declarant shall assign or delegate the rights and obligations of Declarant by an assignment of Declarant's rights recorded in the Wake County Registry.

Section 4. "Limited Common Area" shall mean and refer to the real property, together with any improvements thereon, owned by the Association, whether in fee or by easement, for the common use and enjoyment by the Owners of Lots within the Properties, and including, but not limited to, townhome open space, private streets, retaining walls, pedestrian access easements, and the area within any storm water easements and the facilities constructed therein and which serve more than one Lot and are not located within a public easement or public street right-of-way. The Limited Common Area shall be maintained by the Association or its successors in interest unless dedicated to public use as set forth herein. Limited Common Area also includes water and sewer lines which serve more than one Lot within the Properties, are not located within a City of Raleigh utility easement or a public street right-of-way, and are not maintained by the Master Association as Common Area (as that term is defined in Section 2 of Article I of the Master Declaration. Limited Common Area includes Limited Common Area owned in fee by the Association and any Limited Common Area easements on a Lot.

Section 5. "Lot" shall mean and refer to any plot of land, with delineated boundary lines, shown on any recorded subdivision map of the Properties, with the exception of Limited Common Area owned in fee by the Association and any public or private street rights-of-way shown on such recorded map. In the event that any Lot is increased or decreased in size by recombination or resubdivision through recordation of new subdivision plats, any newly-platted lot shall thereafter constitute a Lot.

Section 6. "Master Association" shall mean and refer to the **INMAN PARK COMMUNITY ASSOCIATION, INC.**, a North Carolina non-profit corporation, its successors and assigns.

Section 7. "Master Declaration" shall mean and refer to the Declaration Of Covenants, Conditions And Restrictions For The Inman Park Community Association, recorded in Book 8273, Page 388, Wake County Registry, and amendments thereto.

Section 8. "Member" shall mean and refer to every person or entity who or which holds membership in the Association.

Section 9. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Properties, including contract sellers and owners of an equity of redemption, but excluding those having an interest in a Lot solely as security for the performance of an obligation.

Section 10. "Properties" shall mean and refer to the "Existing Property" described in Exhibit A to this Declaration and any additional property annexed pursuant to Article II of this Declaration.

Section 11. "Unit" and "Dwelling" shall mean and refer to any building or portion thereof within the Properties which is designated and intended for use an occupancy as a residence by a single family, whether by the Owner(s) of such Unit or by tenants or lessees of the Owner(s) thereof.

**ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION
AND WITHIN THE JURISDICTION OF
THE ENCLAVE ASSOCIATION, INC.**

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

Section 2. Annexation of Additional Property. At any time prior to December 31, 2007, additional land within the property described in Exhibit B to this Declaration (hereinafter the "Exhibit B Property") may be annexed by the Declarant without the consent of the Members and therefore become subject to this Declaration by the recording by Declarant of a plat showing such property to be annexed and of a supplementary declaration extending the operation and effect of this Declaration to the property to be annexed. Any or all of the Exhibit B Property may be annexed and subjected to this Declaration as one parcel or as several parcels at different times.

(b) Conditions of Annexation. Any property to be annexed pursuant to this Section 2 must be contiguous to property already subject to this Declaration and must be approved by the City of Raleigh and, if required, by the Federal Housing Administration and/or Veterans Administration. The supplementary declaration shall be approved by the Raleigh City Attorney or his/her deputy prior to recordation. The addition of such property pursuant to this Section may increase the cumulative number of Lots within the Properties and, therefore, may alter the relative maximum voting strength of the various types of Members.

Section 3. Conveyance of Limited Common Area in Annexed Property. Prior to the conveyance of the first Lot within any newly annexed property to an Owner, the owner of the annexed property shall convey to the Association all Limited Common Area located within the newly annexed property. Title to such Limited Common Area shall be conveyed in the same manner as set forth in Section 3 of Article IV of this Declaration.

Section 4. Density. The current zoning classification of The Enclave At Inman Park is R-4 Planned Development Overlay District, which means that the maximum number of units per acre within the Subdivision without rezoning the property to another zoning classification is four (4) Lots per acre, or a total of 102 lots.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot which is subject to assessment by the Association shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. The Class A Members shall be the Owners of Class A Lots. Declarant shall be the Class B Member.

Section 2. Voting Rights. The voting rights of the membership shall be appurtenant to the ownership of the Lots and may not be separated from ownership of any Lot.

There shall be two classes of Lots with respect to voting rights:

(a) Class A Lots. Class A Lots shall be all Lots except Class B Lots (as hereinafter defined). When more than one person owns an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members and the voting rights appurtenant to their Lot shall be exercised as they, among themselves, determine; but fractional voting shall not be allowed, and in no event shall more than one vote be cast with respect to any Class A Lot. Class A Members shall be entitled to one (1) vote for each Lot owned.

(b) Class B Lots. Class B Lots shall be all Lots owned by the Declarant. Subject to the provisions of this subsection, Declarant, as the Class B Member, shall be entitled to three (3) votes for each Lot that it owns.

Class B Lots shall cease to exist and shall be converted to Class A Lots upon the earlier of the following to occur:

(1) When the total number of votes held by the Class A Members equals the total number of votes held by the Class B Member; provided, however, that, if Class B Lots are terminated pursuant to this subsection, Declarant may acquire additional votes and the Lots owned by Declarant may be reinstated with all rights and privileges of Class B Lots if additional Lots within the Properties are formed by the subsection to this Declaration of new Lots as set forth in Article II hereof, thus making Declarant, by virtue of its ownership of the newly-annexed Lots and of other Lots owned by Declarant, the holder of a sufficient number of votes (at the 3-to-1 ratio) to cast a majority of votes (it being hereby stipulated that the termination and rejuvenation of Class B Lots shall occur automatically as often as the foregoing facts shall occur); or

(2) on December 31, 2007.

When Class B Lots cease to exist, Declarant shall have the same voting rights as other Owners of Class A Lots.

Section 3. Leased Units. If any Unit within the Properties is leased or rented to tenants, the vote as expressed by the Owners of such rented Units shall not be entitled to any weight greater than forty-nine (49) percent on any matter pending before the Association.

ARTICLE IV PROPERTY RIGHTS

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 Association, every Owner shall have a right and easement of enjoyment in, use of and access to, from, and over the Limited Common Area, which right and easement shall be appurtenant to and shall pass with title to every Lot, subject to:

(a) the right of the Association, subject to the provisions of the Raleigh City Code, to charge reasonable admission and other fees for the use of any recreational facilities situated or constructed on the Limited Common Area and to limit the use of such facilities to Owners who occupy a residence on the Properties and to their families, tenants and guests, as provided in Section 2 of this Article IV.

(b) the right of the Association to suspend the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid, or for a period not to exceed sixty (60) days for any infraction of the published rules and regulations of the Association.

(c) the right of the Association to dedicate, sell or transfer all or any part of the Limited Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed upon by the Members. No such dedication or transfer shall be effective unless the Members entitled to at least 80% of the votes of the entire membership of the Association and at least three-fourths (3/4) of the votes appurtenant to each Class of Lots agree to such dedication, sale or transfer and signify their agreement by a signed and recorded document. Nothing herein shall be deemed to prohibit the Board of Directors of the Association, without consent of the Members, from granting easements over and across the Limited Common Area to any public or quasi-public agency, authority or utility for the installation and maintenance of sewerage, utility (including CATV) or drainage facilities when, in the opinion of the Board, such easements are necessary for the convenient use and enjoyment of properties within the Subdivision. Notwithstanding anything herein to the contrary, the Limited Common Area shall be preserved to the perpetual benefit of the owners of Lots within the Subdivision and shall not be conveyed except to the City of Raleigh or another non-profit corporation organized for similar purposes;

(d) the right of the Association to borrow money and, with the assent of Members entitled to at least 80% of the votes of the entire membership of the Association and at least two-thirds (2/3) of the votes appurtenant to each Class of Lots (as defined in Article III, Section 2 of the Declaration), to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money

borrowed or debts incurred, provided 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 Article IV of the Declaration.

(e) the right of the Association, as provided by and consistent with the provisions of Section 10-3073(a)(2) of the Raleigh City Code as same may be amended from time to time, to exchange all or part of the Limited Common Area for other property and consideration of like value and utility, which exchange shall be approved by the City of Raleigh Planning Director. In any instance in which approval of the Members is required for an exchange, such approval may be given by the affirmative vote of a majority of the Members present and voting at a meeting of the Members called, at least in part, for the purpose of approving such exchange.

Section 2. Delegation of Use.

(a) Family. The right and easement of enjoyment and access granted to every Owner by Section 1 of this Article may be exercised by members of the Owner's family who occupy the residence 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 granted to every Owner by Section 1 of this Article may be delegated by such Owner to his tenants or contract purchasers who occupy a residence within the Properties, or a portion of said residence, as their principal residence in Wake County, North Carolina.

(c) Guests. The right and easement of enjoyment and access granted to every Owner by Section 1 of this Article may be delegated to guests of such Owners, tenants or contract purchasers, subject to such rules and regulations as may be established by the Board of Directors.

(d) Suspension of Rights. The rights of any delegate of an Owner shall be suspended by, upon and during suspension of such Owner's rights as provided in Article IV, Section 1(b) and in Article XI, Section 14 of this Declaration.

Section 3. Conveyance of Title To The Association. Declarant, for itself, its successors and assigns, covenants that it will convey title to the Limited Common Area within each phase or section of the Subdivision to the Association prior to the conveyance of the first Lot within such phase or section to an Owner. For so long as it owns any Lot within the Properties, Declarant reserves an easement over and across the Limited Common Area for the purpose of constructing and maintaining any improvements on the Limited Common Area as it deems necessary or advisable, provided that any such improvements must comply with the requirements of the Raleigh City Code. Except as otherwise stated herein, all conveyances by Declarant to the Association 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 Subdivision. Any improvements placed on the Limited Common Area by Declarant shall become the property of the Association upon completion of such improvements.

Section 4. Regulation and Maintenance of Limited Common Area.

(a) Rights and Responsibilities of the Lot Owners. Declarant will, in some instances, reserve on a recorded plat or grant to the Association an easement over and across that portion of any Lot on which a Limited Common Area easement lies. Each Owner of a Lot upon which a Limited Common Area easement lies shall pay all property taxes and other assessments levied against his Lot, including that portion of such tax or assessment as is attributable to such easement. Notwithstanding any other provision of this Declaration, no Owner or other person shall, without the prior written consent of the Association: (1) remove trees or vegetation from Limited Common Area; (2) erect gates, fences, or other structures on Limited Common Area; (3) place any garbage receptacles on Limited Common Area; (4) fill or excavate any Limited Common Area; or (5) plant vegetation or otherwise restrict or interfere with the use, maintenance and preservation of a Limited Common Area easement. The term "Limited Common Area" is defined so as to include Limited Common Area owned in fee by the Association and Limited Common Area easements on a Lot.

(b) Rights and Responsibilities of the Association as to Limited Common Area. The Association shall have the right and obligation to ensure that the Limited Common Area is preserved to the perpetual benefit of the Owners. To that end, the Association shall: (i) maintain the Limited Common Area in its natural or improved state, as appropriate, and keep it free of impediments to its free use by the Owners within the Subdivision; (ii) procure and maintain adequate ^{as provided in Section 8 of Article XII hereof;} and (iii) pay all property taxes and other assessments levied against all Limited Common Area owned in fee by the Association.

liability insurance

(c) Association's Right of Entry. The Association and its employees, agents, contractors and subcontractors shall have a non-exclusive right and easement at all times to enter upon any portion of a Lot reserved or designated as a Limited Common Area easement for the purpose of: (i) installing and maintaining Subdivision identification and other signage, all of which shall have been approved by the City of Raleigh prior to installation; (ii) making such improvements to the Limited Common Area easement as have been approved by the Association and, if required, by the City of Raleigh; and (iii) maintaining the Limited Common Area easement in its natural or improved state, including, without limitation, removal of fallen trees and other debris and, in general, keeping the easement area free from obstructions and impediments to its use.

ARTICLE V
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Declarant, for each Lot that it owns within the Properties, hereby covenants, and each Owner of a 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 to the Association annual assessments and special assessments, such assessments to be established and collected as hereinafter provided. All assessments which are unpaid when due, together with interest and late charges set forth in Section 8 of this Article V and all costs of collection, including reasonable attorneys' fees, shall be a charge on the land and, as provided in Section 47F-3-116 of the Act, shall be a continuing lien upon

the Lot against which such assessment is made. Each such assessment or charge, together with interest and costs of collection, including reasonable attorneys' fees, shall also be the personal obligation of each person or entity owning such Lot at the time when the assessment fell due, but such personal obligation shall not be imposed upon such Owner's successors in title unless expressly assumed by them; however, the unpaid assessments and charges shall continue to be a lien upon the Lot against which the assessment or charge was made. Any monetary fine imposed against an Owner pursuant to Section 3 of Article VII of the Bylaws Of The Enclave Association, Inc., shall constitute a lien against the Lot of such Owner to the same extent as if such fine were an assessment against such Lot.

Section 2. Purposes of Assessments. The assessments levied by the Association shall be used to promote the recreation, health, safety and welfare of the residents of the Properties and, in particular, for: (i) acquisition, improvement, and maintenance of properties, services and facilities related to the use and enjoyment of the Limited Common Area; (ii) repair and reconstruction of improvements on the Limited Common Area, including private streets and storm water drainage facilities constructed on or serving the Properties, including, but not limited to, the cost of repair, replacement and additions thereto and the cost of labor, equipment, materials, management and supervision thereof; (iii) maintenance of private streets and medians and islands within public and private streets within the Properties; (iv) maintenance of private water and sewer distribution systems within the Properties and not maintained by the Master Association as Common Area; (v) payment of taxes and public assessments levied against the Limited Common Area owned by the Association in fee; (vi) procurement and maintenance of insurance in accordance with the Section 4(b) of Article IV and Section 8 of Article IX of this Declaration; (vii) employment of attorneys, accountants and other persons or firms to represent the Association when necessary; (viii) employment of private garbage and trash collection services; (ix) payment of principal and interest on funds borrowed for Association purposes; (x) exterior yard maintenance maintained by the Association as set forth in Article XI hereof; (xi) street island and preserved trees as set forth in Sections 10 and 11 of Article XII hereof; and (xii) such other needs as may arise.

Section 3. Maximum Annual Assessment. Until January 1, 2001, the Maximum Annual Assessment shall be \$2,400.00 for each Class A Lot. Subject to the provisions of Sections 3(c) and 3(d), below, the Maximum Annual Assessment for a Class B Lot shall be one-fourth (1/4) of the assessment for a Class A Lot.

(a) From and after January 1, 2001, the Maximum Annual Assessment may be increased by the Board of Directors effective January 1 of each year without a vote of the membership, but subject to the limitation that the percentage of any such increase shall not exceed 10% of the Maximum Annual Assessment for the previous year unless such increase is approved as set forth in Section 3(b), below.

(b) From and after January 1, 2001, the Maximum Annual Assessment for Class A Lots may be increased without limitation if such increase is approved by the Class B Member and not less than two-thirds (2/3) of the votes cast by the Class A Members, in person or by proxy, at a meeting duly called for that purpose.

(c) The Board of Directors may fix the annual assessment at any amount not in excess of the Maximum Annual Assessment in effect at that time; provided, however, that, except as otherwise provided in this subparagraph (c), the assessment established for each Class B Lot shall always be one-fourth (1/4) of the assessment for a Class A Lot.

In the event that Class B Lots are converted to Class A, or Class A Lots are reconverted to Class B, the assessment with respect to such Lots shall be prorated and charged according to their class as of the date of each conversion and reconversion.

A Declarant-owned Lot that contains a Dwelling used as a model or sales center and not as a residence shall be assessed at the Class B rate. All other Class B Lots shall be assessed at the Class B rate until the first day following the date that is one year after issuance of the certificate of occupancy for the dwelling constructed on that Lot, after which time it shall be assessed at the Class A rate, but such Lot shall remain a Class B Lot for all other purposes.

(d) Any annual assessment established by the Board of Directors shall continue thereafter from year to year as the annual assessment until changed by the Board.

Section 4. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessments for the purpose of defraying, in whole or in part, the cost of any construction, repair or replacement of a capital improvement upon the Limited Common Area, including fixtures and personal property related thereto, for repayment of indebtedness and interest thereon, or for any other purpose, provided that any such assessment shall have the same assent of the Members as provided in Section 3(b) of this Article and shall be in the ratios provided in Section 3(c) of this Article.

Section 5. Uniform Rate; Collection Period. Except as provided in Article IX hereof, the annual and special assessment shall be fixed at a uniform rate for all Lots within each Class and may be collected on a yearly, semiannually, quarterly, or monthly basis, as determined by the Board of Directors.

Section 6. Notice of Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than fifteen (15) days nor more than thirty (30) days prior to the meeting. At such meeting, the presence of members or of proxies entitled to cast sixty (60%) percent of the votes appurtenant to each Class of Lots shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and if the same is called for a date not later than sixty (60) days after the date of the first meeting, the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

Section 7. Date of Commencement of Annual Assessments: Amount of Initial and Subsequent Annual Assessments: Certificate of Payment. Unless a different commencement date is set by the Board of Directors, the annual assessments provided for herein shall commence as to all Lots in any phase on the first day of the month following the date of issuance of a certificate of occupancy of the Dwelling

constructed on such Lot. Unless a lower amount is set by the Board of Directors, the first annual assessment shall be the Maximum Annual Assessment set forth in Section 3 of this Article and shall be prorated according to the number of months remaining in the calendar year.

The Board of Directors shall adopt a proposed budget for the Association at least annually. Within 30 days after adoption of the proposed budget, the Board of Directors shall send a copy of the proposed budget to the Members and shall give written notice to the Members of a meeting of the Members to consider ratification of the budget, such meeting to be held not sooner than 10 days nor more than 60 days after the mailing of such notice. Such meeting may, but need not be, combined with the annual meeting of the Members. There shall be no requirement that a quorum be present in order to vote on ratification of the budget (although a quorum must be present to vote on other matters). The budget shall be deemed ratified unless at that meeting Members having a majority of the votes of the entire membership vote to reject the budget. If the proposed budget is rejected, the budget last ratified by the Members shall be continued until such time as the Members ratify a subsequent budget proposed by the Board.

The Board of Directors shall establish the annual assessments based on the most recent approved budget and shall notify the Members of a change in the annual assessment at least 10 days before the effective date of such change. The due dates for the payment of annual and special assessments shall be established by the Board of Directors.

The Association shall, upon demand, and for such reasonable charge as the Board of Directors may determine, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a Lot have been paid. If such certificate states that an assessment has been paid, such certificate shall be conclusive evidence of payment.

Section 8. Effect of Nonpayment of Assessments: Remedies. An assessment not paid within ten (10) days after the due date shall incur such late charge as the Board of Directors may from time to time establish, and, if not paid within thirty (30) days after the due date, shall also bear interest from the due date at the rate of eighteen percent (18%) per annum or the highest rate allowed by law, whichever is less. The Association may bring an action at law or in equity against the Owner personally obligated to pay the same and/or foreclose the lien against the Lot for which such assessment is due. Interest, late payment charges, costs and reasonable attorneys' fees of such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Limited Common Area or by abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinate to the lien of any first mortgage or deed of trust on a Lot. Sale or transfer of any Lot shall not affect any assessment lien; however, the sale or transfer of a Lot pursuant to foreclosure of a first mortgage or deed of trust, or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of any assessments which became due prior to the date of such conveyance. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage or deed of trust on such Lot.

Section 10. Exempt Property. All property dedicated to and accepted by a public authority and all property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. Notwithstanding the foregoing, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 11. Working Capital Fund. At the closing of the initial sale of the Dwelling constructed on each Lot, a sum equal to one-sixth (1/6) of the annual assessment for Class A Lots in effect at the time of such sale shall be collected from the purchaser and transferred to the Association as part of its working capital. The purpose of the working capital fund is to ensure that the Association will have adequate cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed by the Board of Directors to be necessary or desirable. Amounts paid to pursuant to this Section shall not be considered as an advance payment of any regular assessment.

ARTICLE VI RIGHTS OF LENDERS

Section 1. Books and Records. Any owner or holder of a first deed of trust on any Lot, or its agents, shall have the right, during normal business hours, to examine copies of this Declaration, the Articles of Incorporation, Bylaws, and the books and records of the Association and, upon written request to the Association, to receive a copy of the financial statement for the immediately preceding fiscal year.

Section 2. Notice to Lenders. Upon written request to the Association, the owner or holder of a first deed of trust on any Lot shall be entitled to timely written notice of:

- (a) Any 60-day delinquency in the payment of assessments or charges owed by the Owner of the Lot securing its loan;
- (b) A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and/or
- (c) Any proposed action that requires the consent of a specified percentage of owners or holders of first mortgages on the Lots.

Section 3. Approval of Owners and Holders of First Deeds of Trust. Unless at least seventy-five percent (75%) of the owners and holders of the first deeds of trust on Lots located within the Properties have given their prior written approval, the Association shall not:

- (a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any real estate or improvements thereon which are owned, directly or indirectly, by the Association. The granting of easements for utilities or other purposes shall not be deemed a transfer within the meaning of this clause. Nothing herein shall be deemed to prohibit the Association, with the consent of the City of Raleigh, from exchanging Limited Common Area for other real property as provided in the Raleigh City Code, or to require the approval of such exchange by the holders of first deeds of trust on the Lots;

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

(c) Fail to maintain hazard insurance on insurable improvements on the Limited Common Area on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value; or

(d) Use the proceeds of any hazard insurance policy covering losses to any part of the Limited Common Area for other than the repair, replacement, or reconstruction of the damaged improvements.

Section 4. Payment of Taxes and Insurance Premiums. The owners or holders of first deeds of trust on Lots, jointly or singly, may pay taxes or other charges which are in default and which have or may become a charge or lien against any of the Limited Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage upon the lapse of a policy covering property owned by the Association. The persons, firms or corporations making such payments shall be owed immediate reimbursement therefor by the Association.

ARTICLE VII EASEMENTS

Section 1. Access and Utility Easements. Easements for the installation and maintenance of driveways, walkways, water, gas, telephone, cable television and electric power transmission lines, sanitary sewer and storm water drainage facilities, and for other public utility installations are reserved as shown on the recorded plats of the Properties. The Association may reserve or grant easements over the Limited Common Area as provided in Article IV, Section 1(c), of this Declaration. Within any such easement herein provided, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation or maintenance of the utilities installed thereon, or which may change the direction of flow or drainage of water through drainage pipes or channels constructed in such easements.

For a period of fifteen (15) years from the date hereof, Declarant reserves an easement and right of ingress, egress and regress on, over and under the Properties to maintain and correct drainage or surface water runoff in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil or take any other similar action that it deems reasonably necessary or appropriate. After such action has been completed, Declarant shall grade and seed the affected property and otherwise restore the affected property to its original condition to the extent practicable, but shall not be required to replace any trees, bushes or shrubbery necessarily removed. Declarant shall give reasonable notice of its intent to take such action to all affected Owners.

Section 2. Easements for Governmental Access. An easement is hereby established over the Limited Common Area and every Lot within the Properties for the benefit of governmental agencies for: installing, removing, and reading water meters and fire lines; maintaining and replacing water and sewer

facilities; and acting for other purposes consistent with public safety and welfare, including, without limitation, law enforcement, fire protection, garbage collection and the delivery of mail.

Section 3. Owner's Easement and Right of Entry for Repair, Maintenance and Reconstruction.

If any Dwelling is located closer than five (5) feet from its lot line, the Owner thereof shall have a perpetual access easement over an adjoining Lot and/or Limited Common Area to the extent reasonably necessary to repair, maintain or reconstruct his Dwelling. Such work shall be done expeditiously and, upon completion of the work, the Owner shall restore the adjoining Lot to as nearly the same condition as that which prevailed prior to the commencement of the work as is reasonably practicable. No fence, wall, storage shed or any other obstruction shall be erected within such area adjoining a Dwelling. See Raleigh City Code, Sec. 10-3073(b)(8).

Section 4. Association's Easement and Right of Entry.

The Association, for itself and its employees, agents, contractors, subcontractors and invitees, shall have a perpetual access easement over each Lot to the extent reasonably necessary to perform any maintenance to be performed by the Association as provided in the Bylaws or this Declaration and to enforce any rule, regulation, or restriction applicable to the Lot.

Section 5. Easement Over Limited Common Area.

A perpetual, non-exclusive easement over the Limited Common Area is hereby granted to each Lot and its Owner, family members and tenants of the Owner, the occupants of such Lot, and guests and invitees of such Owners, tenants or occupants, for the purpose of providing access, ingress and egress to and from the Limited Common Area and for the use thereof.

Section 6. Pedestrian Access Easements.

As to any portion of the Limited Common Area shown on the recorded maps of the Properties as being reserved for greenway and/or pedestrian access, the easement granted by the foregoing section shall also runs to the benefit of the City of Raleigh and its employees, and to the public in general, for the purpose of pedestrian traffic through the easement area to and from the City of Raleigh greenways. The Association is responsible for ensuring that pedestrian access easements remain free and clear of all obstructions, including fallen trees, so that there is no impediment to access to the adjoining greenway.

Section 7. Easement For Encroachments.

In the event that any structure erected on a Lot encroaches upon any other Lot or the Limited Common Area, and such encroachment was not caused by the purposeful act or omission of the Owner of such Lot, then an easement appurtenant to such Lot shall exist for the continuance of such encroachment upon the Limited Common Area or other Lot for so long as such encroachment shall naturally exist. In the event that any structure erected principally on the Limited Common Area encroaches upon any Lot, then an easement shall exist for the continuance of such encroachment of such structure onto such Lot for so long as such encroachment shall naturally exist. The foregoing shall not be construed so as to allow enlargement of any existing encroachment or to permit the rebuilding of the encroaching structure, if destroyed, in a manner so as to continue such encroachment.

ARTICLE VIII ARCHITECTURAL CONTROL

No building, fence, sign (including unit identification sign), wall or other structure (including, without limitation, replacement of any previously existing improvement) shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made (including, without limitation, changing materials or color of any exterior portion of any such improvement), nor shall a building permit for such improvement or change be applied for or obtained, nor shall any major landscaping or relandscaping of any Lot be commenced or made (such construction, alteration and landscaping are hereinafter referred to as the "Improvements") until plans and specifications showing the nature, kind, shape, heights, materials, color and location of same shall have been submitted to and approved in writing by the Declarant. If Declarant fails to approve or disapprove such proposed Improvements within thirty (30) days after complete plans and specifications have been received by it, the same shall be deemed disapproved. Declarant shall have the right to charge a reasonable fee, not to exceed \$100.00, for receiving and processing each application. Declarant shall have the right to promulgate and from time to time amend written architectural standards and construction specifications (hereinafter the "Architectural Guidelines") which may establish, define and expressly limit the standards and specifications which will be approved, including, but not limited to, architectural style, exterior color or finish, roofing material, siding material, driveway material, landscape design and construction technique. Declarant may not approve any Improvements which it determines, in its discretion, not to be in harmony of external design, construction and/or location in relation to the surrounding structures, topography or the general plan of development of the Subdivision. All signs erected or placed on the Properties shall also comply with the Unified Sign Criteria on file with the City of Raleigh Inspections Department. Nothing herein shall be construed to apply to Declarant or to permit interference with the development of the Lots and the construction of Dwellings thereon by Declarant in accordance with its general plan of development.

Declarant may, at any time, delegate the review and approval authority contained in this Article VIII to the Board of Directors of the Association or to an Architectural Committee composed of three or more persons appointed by the Board. Such delegation shall be made by the Declarant by recording in the Wake County Registry an Assignment Of Declarant's Rights. Declarant shall delegate such authority no later of the date upon which Declarant no longer owns any Lots within the Properties or December 31, 2005, whichever is earlier. Any use of the term "Declarant" in this Article VIII shall be deemed to apply to Declarant and, when appropriate, to the Board of Directors or the Architectural Committee.

ARTICLE IX MAINTENANCE OF LOTS AND DWELLINGS

Section 1. Association's Responsibility. In addition to maintenance of the Limited Common Area and the improvements and facilities located thereon, the Association shall be responsible for maintaining the grass, plants, shrubs, trees, landscaping, sidewalks, driveways and parking areas located on each Lot (hereinafter the "Yard Improvements") and installed by the Declarant or the Association, and any Yard Improvements installed by an Owner with the prior written consent of the Association (but only to the extent that such consent specifically provides that the Association will maintain such added Yard

Improvements), provided, however, that: (i) the Association shall not be responsible for maintaining any fence installed on any Lot or any Yard Improvements inside of such fence installed; (ii) the Association's obligation to maintain shall not include the obligation to replace any plant, shrub or tree 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 governmental entity. The Association shall also be responsible for maintenance and repair of all retaining walls constructed by the Declarant or the Association within the Properties, whether on the Limited Common Area or a Lot. The Association shall also maintain and repair the exterior of each Dwelling, including, without limitation, its roof and exterior walls, but specifically excluding glass windows and doors.

The Board of Directors of the Association or the Members, by the affirmative vote of a majority of the Members of each Class, shall have the right (but not the obligation) to accept certain items, areas or improvements on a Lot for maintenance by the Association, including, but not limited to, Yard Improvements installed by an Owner. Such acceptance shall be in writing and may be subject to such terms and conditions, including, but not limited to, a special assessment or increased annual assessment for that Lot (which, being consensual, need not be approved as provided in Article V hereof), as the Association might establish in such written acceptance.

Section 2. Owner's Responsibility: Remedy for Owner's Failure to Maintain. Any maintenance on a Lot that is not the responsibility of the Association, whether by the terms of this Declaration or by written acceptance of same, shall be the responsibility of the Owner of such Lot. If an Owner does not perform any required maintenance of his Lot or Dwelling, the Association shall have the right (but not the obligation), through its agents and employees, by the affirmative vote of not less than two-thirds (2/3) of the Board of Directors, to enter upon such Lot and to repair, maintain and restore the Lot or exterior of the Dwelling erected thereon, and the cost of such maintenance, plus a surcharge of 15% for administration, shall be assessed in accordance with Section 3 of this Article. Prior to such entry, the Association shall give written notice to the Owner stating: (i) the specific items needing maintenance; (ii) the corrective action to be taken; (iii) a time, not less than 15 calendar days from the date of the notice, in which the Owner is to perform the necessary maintenance; and (iv) a statement that, if the Owner fails to perform the maintenance within such time period, the Association will exercise its right to perform the maintenance and that the Owner will be assessed with the costs thereof as provided in this Article IX.

Section 3. Assessment of Cost. In the event that the Association performs maintenance on any Lot as provided in Section 2 of this Article IX, the cost of any such maintenance, replacement or repairs shall be assessed against the Lot upon which such maintenance is done and shall be added to and become part of the assessments to which such Lot is subject under Article V hereof, enforceable under the terms thereof.

Section 4. Access at Reasonable Hours. As provided in Section 4 of Article VII of this Declaration, the Association, through its duly authorized agents or employees, shall have the right, without notice to the Owner, to enter upon any Lot at reasonable hours on any day to perform any maintenance and repairs to be performed by the Association.

ARTICLE X PARTY WALLS

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

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use. Each Owner shall, upon demand from an adjoining Owner, and for no charge, furnish a certificate signed by such Owner stating whether the any sums are due to the Owner from the adjoining Owner for any costs of repair and maintenance of a party wall. If such certificate states that an assessment has been paid, such certificate shall be conclusive evidence of payment.

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

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner (including his tenants, family members and contractors) who, by his negligent or willful act or omission, causes a party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements and of any damage resulting from such exposure.

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

Section 6. Owner's Easement and Right of Entry for Repair, Maintenance and Reconstruction. Each Owner of a Lot which shares a party wall shall have a perpetual easement over the adjoining Lot to the extent reasonably necessary to repair, maintain or reconstruct the party wall. Such easement may be exercised only after written notice to such adjoining Owner of the necessity of the work. Such work shall be done expeditiously and in such a manner as to cause the least inconvenience to the adjoining Owner. Upon completion of the work, the Owner shall restore the adjoining Lot to as nearly the same condition as that which prevailed prior to the commencement of the work as is reasonably practicable.

Section 7. Arbitration. If a dispute arises concerning a party wall or the provisions of this Article X, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision of a majority of the three arbitrators so chosen shall be binding on all parties to the dispute. The cost of such arbitration shall be borne equally by the parties involved.

ARTICLE XI RESTRICTIONS, CONDITIONS AND COVENANTS

Section 1. Compliance with Declaration. Bylaws and Rules and Regulations. Each Owner and occupant of such Owner's Dwelling, and the guests and invitees of each, shall comply with all applicable provisions of the Act, this Declaration, the Bylaws, the Articles of Incorporation of the Association, and the Rules and Regulations promulgated by the Board or the Association, as amended. Failure to comply shall be grounds for an action by the Association, an aggrieved Owner, or any person adversely affected, for recovery of damages, injunction, or other relief.

Section 2. Use Restrictions: Use by Declarant.

(a) Use of Dwellings. Except as may be otherwise expressly provided in this Declaration, each Dwelling shall be used for residential purposes only and shall be occupied on a permanent basis by no more than three (3) unrelated persons or six (6) related persons. Lease or rental of a Dwelling for residential purposes shall not be considered to be a violation of this Covenant, so long as the lease is in compliance with the provisions of this Declaration, the Bylaws and reasonable Rules and Regulations adopted by the Board.

(b) Prohibited Uses. No Lot or dwelling constructed thereon shall be used for any purpose which is not permissible under applicable governmental residential zoning regulations. No business trade or activity may be conducted on any Lot unless permitted either by the Board of Adjustments of the City of Raleigh or the zoning inspector for the City of Raleigh, as appropriate.

(c) Declarant's Rights. The foregoing provisions of this Section or any other provision of this Declaration or the Bylaws notwithstanding, Declarant shall have the right to maintain sales offices and model homes within the Properties.

Section 3. Lease of Dwellings. The Owner of a Dwelling may lease or sublet his Dwelling, provided, however, that any lease or sublease must be for at least six (6) months, in writing and contain substantially the following provision:

"Tenant shall obey, adhere to and be bound by all provisions of the Declaration Of Covenants, Conditions And Restrictions For The Enclave Association, Inc., recorded in the Wake County Registry. Each tenant acknowledges that he/she has received of a copy such Declaration and the rules and regulations of the Association and is familiar with the provisions of same."

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. Owner shall furnish the Association a copy of any leases or subleases of his/her Dwelling.

Section 4. Compliance with Laws: Nuisances. No immoral, improper or unlawful use shall be made of the Properties or any part thereof. All valid laws, zoning ordinances and regulations of governmental bodies having jurisdiction thereof shall be observed.

No person shall engage in any use, practice or activity within the Properties which is or may be offensive or a nuisance or annoyance to the Owners or their tenants or which unreasonably interferes with the peaceful possession and proper use of the Properties by any Owner and/or tenants. No exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on a Lot or the Limited Common Area. No Owner or other person shall allow rubbish, refuse or garbage to accumulate on his Lot or on the Limited Common Area, nor permit a fire hazard to exist. Any Owner who shall dump or place (or permit his family, tenants, guests or agent to do so) any trash or debris in violation of these Rules shall be liable to the Association for the actual cost of removal thereof or the sum of \$100.00, whichever is greater, and the same shall be added to and become a part of the assessment next coming due to which the Owner is subject. No Owner shall permit any use of a Dwelling or of the Limited Common Area which will increase the rate of insurance obtained by the Association or any Owner. The Association shall have the right to remove any item or items left outside a Dwelling or on the Limited Common Area.

Section 5. Hazardous Use and Waste. Nothing shall be done to or kept in any Dwelling or the Limited Common Area that will or might cause the cancellation of or increase the premium rate of any insurance maintained by the Association, or present a safety hazard to any person, or constitute a violation of any law, or result in the commitment of waste (damage, abuse, or destruction) to or in his Dwelling or the Limited Common Area.

Section 6. Signs. Except as otherwise required by the City of Raleigh, no sign of any kind shall be displayed to the public view on any Lot except signs used by Declarant to advertise Lots and/or Dwellings for sale during the construction and sales period, and, after Declarant no longer owns the Lot, one sign of not more than six (6) square feet advertising the property for sale or rent, and signs of not more than six (6) square feet expressing support of or opposition to political candidates or other issues which will appear on the ballot of a primary, general or special election, provided that such political signs shall not be placed on a Lot earlier than thirty (30) days before such election and shall be removed within two (2) days after such election.

Section 7. Animals. No animals, livestock, or poultry of any kind shall be kept or maintained on any Lot or in any Dwelling, except that dogs, cats, or other household pets may be kept or maintained, provided that they are not kept or maintained for commercial purposes. As provided in Section 14 of this Article XI, the Association shall have the right and authority to adopt rules and regulations which further limit or prohibit the types of animals or household pets which may be kept or maintained on a Lot or in a Dwelling and which limit or prohibit such animals on Limited Common Area.

Section 8. Antennas: Satellite Dishes. No satellite receiver or disc of any size and no radio or television transmission or reception towers or antennas shall be erected on a Lot unless approved as provided in Article VIII of this Declaration.

Section 9. Clotheslines. No outdoor clothesline may be erected or maintained on any Lot.

Section 10. Garbage: Unsightly Storage. All trash and rubbish shall be kept in garbage cans stored in the garage or other enclosure approved pursuant to Article VIII hereof. No trash, rubbish, stored materials, wrecked or inoperable vehicles, or similar unsightly items shall be allowed to remain on any Lot. In the event of curbside trash and/or garbage pickup, trash and/or garbage cans may be moved to the street on the night before the scheduled pickup, but all garbage cans must be returned to approved enclosure the night of the scheduled pickup.

Section 11. Parking. No Owner or his family, lessee or sublessee or guest of an Owner shall park or store any vehicle, boat, trailer, camper or camper top, recreational vehicle, or any other similar object on any private street within or adjoining the Subdivision, or on any Lot except in the garage constructed on such Lot. Notwithstanding the foregoing, guests and invitees of any Owner or lessee may park a private passenger vehicle on the driveway or other portion of a Lot paved for parking of vehicles for a period not to exceed seven (7) days. Furthermore, nothing herein shall be deemed to prohibit temporary parking of vehicles involved in deliveries to a Dwelling.

The Board of Directors shall have the right and authority to make, amend, implement and enforce such additional parking rules and regulations as it deem necessary or appropriate, and shall have the right and authority to enforce same, including, but not limited to, the right to levy fines for violations thereof. Furthermore, the Association shall have the right and authority to have towed any vehicle parked or maintained in violation of these or subsequently-adopted parking rules and regulations, the cost of which towing and storage shall be the responsibility of the Owner of the Lot to which such vehicle is registered.

Section 12. Alteration of Limited Common Area. No Owner or occupant, except Declarant, shall alter, construct anything upon, or remove anything from, the Limited Common Area or any improvement thereon, or paint, decorate, landscape or adorn any portion of the Limited Common Area, without the prior written consent of the Association.

Section 13. Use of Limited Common Area. Except with the specific written consent of the Association, the Limited Common Area shall not be used for temporary or permanent storage of supplies, personal property, trash or refuse of any kind, other than in common trash receptacles placed at the discretion of the Board of Directors of the Association, nor shall such areas be used in any way for the drying or airing of clothing, rugs or other fabrics. Entrances, sidewalks, yards, driveways, parking areas and stairways shall not be obstructed in any way, other than normal usage by a Owner. No activity shall be carried on nor condition maintained by any Owner, either in his Dwelling or upon the Limited Common Area, if such activity would despoil, or tend to despoil, the appearance of the Properties. No "garage sales", "attic sales" or "yard sales" shall be permitted outside of a Dwelling. It is expressly acknowledged and agreed by all parties concerned that this section is for the mutual benefit of all Owners of the Properties and is necessary for the protection of the Owners and is enforceable by the Association or by any one or more Owners. The provisions of this section shall not prevent the temporary placement on Limited Common Area of closed sanitary containers in compliance with Section 10, above.

Section 14. Rules and Regulations. The Board of Directors shall have the authority to adopt additional rules and regulations governing the use of the Limited Common Area and the Lots within the Subdivision and shall furnish a written copy of said rules and regulations to the Owner(s) of each Lot at least fifteen (15) days before such rules and regulations become effective. Any violation of such rules shall be punishable by fine and/or suspension of voting rights as provided in this Declaration.

In addition to any other rights and remedies that the Association may have under this Declaration, the Association may impose sanctions for violations of this Declaration, the Bylaws of the Association, the rules and regulations adopted Association, or the Restrictive Covenants applicable to the Properties (collectively the "Rules"), in accordance with procedures set forth in the Bylaws, which sanctions may include, but are not limited to, reasonable monetary fines and suspension of the right to vote and the right to use any recreational facilities within the Limited Common Area, provided, however, that the Association shall not have the right to suspend the right to use private streets.

In addition, pursuant to procedures set forth in the Bylaws, the Association may exercise self-help to cure violations (specifically including, but not limited to, the towing of vehicles that parked in violation of the parking rules).

The Association shall at all times have the right and easement to go upon any Lot for the purposes of exercising its rights hereunder, including, but not limited to, enforcement of the Rules. Any entry onto any Lot for purposes of exercising this power of self-help shall not be deemed as trespass. All remedies set forth in this Declaration and the Bylaws shall be cumulative of any remedies available at law or in equity. In any action to enforce its rights and remedies, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

ARTICLE XII GENERAL PROVISIONS

Section 1. Enforcement. The Association or any Owner shall have the right to enforce, by proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

The Association shall not be obligated to take action to enforce any covenant, restriction or rule which the Board reasonably determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement actions. Any such determination shall not be construed as a waiver of the right to enforce such provisions under other circumstances or to estop the Association from enforcing any other covenant, restriction or rule.

Section 2. Severability. Invalidation of any one of these 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 Declaration shall run and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless terminated or amended by a vote of the Owners as set forth below. This Declaration may be amended by an instrument signed by the Owners of not less than two-thirds (2/3) of the Lots. No amendment shall be effective unless it has first been approved, if required by Section 4 of this Article XII, by the Federal Housing Administration or Veterans Administration, and is recorded in the office of the Register of Deeds of Wake County.

Section 4. FHA/VA Approval. In the event that Declarant has arranged for and provided purchasers of Lots with FHA-insured or VA-guaranteed mortgage loans, then, as long as any Class B Lot exists, as provided in Article III hereof, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, mortgaging of real property owned by the Association, deeding of such real property to persons other than the Association, and amendment of this Declaration.

Section 5. Non-Liability of Governmental Entities. The City of Raleigh shall not be responsible for failing to provide any emergency or regular fire, police or other public service to the Properties, any Lot, or any Owner or occupant when such failure is due to the lack of access to the Properties or any Lot thereof due to inadequate design or construction of such access, blocking of access routes, or any other factor within the control of the Declarant, the Association, an Owner, or an occupant of any Lot. Neither the City of Raleigh nor the State of North Carolina shall be responsible for maintenance of any private street within the Subdivision. Such responsibility shall rest with the homeowners association and occupants in that such private streets will not be constructed to the minimum standards sufficient to allow their inclusion for public maintenance.

Section 6. Subdivision of Lots. No Lot within the Subdivision may be subdivided by sale or otherwise so as to reduce the total lot area shown on the recorded plats of the Subdivision, except by and with the consent of the Declarant and, while there is Class B Membership, by the City of Raleigh.

Section 7. Declarant's Right To Change Development. With the approval of the City of Raleigh, and subject to such terms and conditions as the City of Raleigh may impose, Declarant shall have the right, without consent or approval of the Owners, to create dwelling units, add Limited Common Area, and reallocate units within, and withdraw real property from the development.

Section 8. Insurance. The Association shall procure and maintain adequate liability insurance, in an amount not less than \$1,000,000.00, covering the Association and its Members, Directors and officers, against any loss or damage suffered by any person (including the Owner of a Lot upon which a Limited Common Area easement lies) resulting from use of the Limited Common Area. The Association shall also procure and maintain full replacement value hazard insurance on real and personal property owned by the Association, and shall procure and maintain officers', directors' and employees' liability insurance. The

premiums for such insurance shall be a common expense paid from the annual assessments provided in Article V of this Declaration.

Section 9. Greenway - City of Raleigh Approval. Notwithstanding any other provision of this Declaration, the Association, Owners, Members, tenants of Members and their respective families, guests and invitees, shall not, within any portion of the Limited Common Area which is greenway area dedicated to the City of Raleigh, without the prior written consent of the City of Raleigh:

- (a) grant any easement of any nature whatsoever;
- (b) remove any tree or vegetation;
- (c) erect any gate, fence or other structure or improvement;
- (d) place any garbage receptacle;
- (e) fill or excavate; or
- (f) plant vegetation of any type or otherwise restrict or interfere with the use, maintenance and preservation of the greenway in its natural or improved state, including, without limitation, recreational pursuits such as walking, bicycling and other similar activities by the general public.

It is understood and agreed that, within any greenway area, the City of Raleigh may erect trails and trail markers, place or erect litter receptacles and other convenience facilities, 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 not inconsistent with those adopted by the City and may enter into such agreements with the City of Raleigh as are deemed appropriate to ensure the maintenance and upkeep of the greenway in its natural or improved state, free of litter and unsightly debris.

Section 10. Street Islands: No Parking Signs. The Association shall be responsible for maintenance of landscaped islands within the rights-of-way of public streets as if such islands were Limited Common Area. The Association shall keep the islands in a neat, clean and safe condition. Neither the City of Raleigh, the State of North Carolina, nor their respective officers and employees shall have any liability for any damage or loss suffered by any person or entity caused by encroachment of any plants or other improvements located upon an island onto the public street right-of-way, and the Association shall indemnify and hold the City and State harmless from any such liability. The Association shall be responsible for maintenance of the required "No Parking" signs within the Properties.

Section 11. Tree Preservation Plan. It is a requirement of the City of Raleigh that The Enclave At Inman Park have a tree preservation plan for the 50-foot protective yard along the perimeter of the Subdivision. Consequently, Declarant has proposed, and the City has approved, the "Site Planting Plan", prepared by Rivers & Associates, Inc., dated 5/24/99 (the "Tree Protection Plan"), a copy of which is on file with the City. Declarant shall cause all trees required by the Tree Protection Plan to be installed and/or protected during the development of the Subdivision. The Association shall be responsible for maintaining all plantings and landscaping required by the Tree Protection Plan. No Owner or other person shall remove or damage any required tree or landscaping.

Section 12. Master Association. The Lots within the Subdivision are in a planned community known as Inman Park, and each Owner of a Lot within the Subdivision is a Member of The Inman Park Community Association, Inc., and is subject to and bound by the Declaration Of Covenants, Conditions, and Restrictions For The Inman Park Community Association, Inc, recorded in Book 8273, Page 388, Wake County Registry (the "Master Declaration"), which Master Declaration (and any amendments thereto) provides additional restrictions on such Lots.

Section 13. Refuse Collection. The City of Raleigh shall not be responsible for refuse collection; instead, refuse collection shall be provided by means of a private contractor employed by the Association.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed under seal on this the 22nd day of November, 1999.

DECLARANT:

WKB RALEIGH, LLC (Seal)

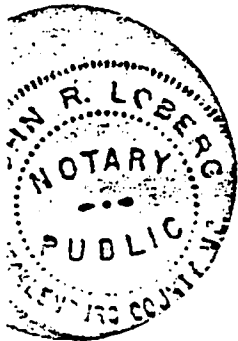
By:

Max A. Williams, Manager

STATE OF NORTH CAROLINA - MECKLENBURG COUNTY

I, JOHN R. LOBERG, a Notary Public for Mecklenburg County, North Carolina, certify that MAX A. WILLIAMS, Manager of WKB RALEIGH, LLC, a North Carolina Limited Liability Company, personally came before me this day and acknowledged the due execution of the foregoing instrument for and on behalf of the Company.

Witness my hand and official stamp and seal, this the 22nd day of November, 1999.



John R. Loberg
Notary Public

My commission expires: SEPTEMBER 19, 2004

EXHIBIT A

THE ENCLAVE AT INMAN PARK TOWNHOMES

Lying and being in the City of Raleigh, House Creek Township, Wake County, North Carolina, and being more particularly described as follows:

All of the real property, containing 27.56 acres, more or less, shown on the map entitled "Final Plat The Enclave at Inman Park Townhomes" recorded in **Book of Maps 1999, Page 2181 - 2184**, Wake County Registry, and including the **Lots 1-102 and the Limited Common Area** shown on the aforesaid recorded maps, to which maps reference is hereby made for a more particular description.