BK013280PG02419

WAKE COUNTY, NC 24
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
10/23/2008 AT 09:39:20

BOOK:013280 PAGE:02419 - 02549

Prepared In Part by and return to:
Pendergrass Law Firm, PLLC
P O Drawer 33809
Raleigh, NC 27636

Prepared In Part And Approved By:
Greg L. Hinshaw, Esq.
Burns, Day & Presnell
Counsel for Breezewood Homes, LLC

NORTH CAROLINA

WAKE COUNTY

DECLARATION CREATING UNIT OWNERSHIP BREEZEWOOD II CONDOMINIUM REGIME [NCGS 47C]

THIS DECLARATION CREATING UNIT OWNERSHIP FOR THE BREEZEWOOD II CONDOMINIUM REGIME is made this 23rd day of October, 2008 (hereinafter referred to as the"Declaration"), by Wake North Developers, LLC, a North Carolina limited liability company, (hereinafter referred to as the "Declarant") with the conditional consent and approval of Falls Landing Developers, LLC, as the owner of an undivided interest in the Jointly Owned Property hereinafter more particularly described and for such other purposes as may require the joinder of Falls Landing Developers, LLC to give full effect to the terms and provisions hereof; such consent and approval of Falls Landing Developers, LLC being expressly conditioned upon the Declarant similarly executing any declaration hereafter prepared by the said Falls Landing Developers, LLC for purposes of establishing the Breezewood I Condominium Regime on the Breezewood I Property hereinafter more fully described.

WITNESSETH

WHEREAS, Declarant owns, in fee simple absolute, the property more particularly described on **Exhibit "A"** attached hereto and made a part hereof consisting of a total of 16.718 acres more or less and identified on the Breezewood II Plat(s) as Lots 3, 4 and 5, (hereinafter referred to singularly as "Lot 3", "Lot 4" or "Lot 5" as applicable and collectively as "Lots 3, 4 and 5"); and

WHEREAS, Falls Landing Developers, LLC owns, in fee simple absolute, the property more particularly described on **Exhibit "B"** attached hereto and made a part hereof consisting of a total of 13.252 acres more or less and identified on the Breezewood I Plat(s) and Lots 1, 2, and 6 (hereinafter referred to singularly as "Lot 1", "Lot 2", or "Lot 6", as applicable and collectively as "Lots 1, 2, and 6"); and

WHEREAS, Declarant and Falls Landing Developers, LLC own, as tenants in common, subject to a shifting executory interest, the property more particularly described on **Exhibit "C"** attached hereto and made a part hereof consisting of 0.71 acres more or less and identified on the Breezewood I Plat(s) and the Breezewood II Plat(s) as Lot 7 (hereinafter sometimes referred to as the "Lot 7" and sometimes referred to as the "Jointly Owned Property"), each co-tenant owning a one-half (1/2) undivided interest therein; and

WHEREAS, Lot 3 of the Breezewood II Property is presently fully improved to its maximum allowed density with seventy-eight (78) separately identifiable dwelling units existing thereon; and

WHEREAS, Lot 4 of the Breezewood II Property is partially improved with forty-six (46) separately identifiable dwelling units having sufficient density remaining to construct an additional thirty-two (32) separately identifiable dwelling units thereon:

WHEREAS, Lot 5 of the Breezewood II Property, presently has no dwelling units constructed thereon but has sufficient density to construct fifty-six (56) separately identifiable dwelling units thereon; and

WHEREAS, the Declarant desires to establish, on the Breezewood II Property, by this Declaration and any amendments hereto, a multi-phased condominium regime known as BREEZEWOOD II CONDOMINIUM REGIME consisting of up to a total of two hundred twelve (212) separately numbered residential condominium units if all Units are established; and

WHEREAS, Falls Landing Developers, LLC desires to establish, on the Breezewood I Property, a single phase condominium regime, by separate declaration and any amendments thereto, and the Breezewood I Plat(s) and Plan(s) as hereafter more fully defined, such condominium regime to consist of one hundred thirty-two (132) separately numbered residential condominium units and ten (10) Garage Units established by submitting the Breezewood I Property inclusive of the improvements situated thereon, to the provisions of the Act (herein referred to as the "Breezewood I Condominium Regime"); and

WHEREAS the Declarant desires to immediately submit all of Lot 3, that portion of Lot 4 as is denominated on the Breezewood II Plat(s) as Phase 1 and the Declarant's one-half (1/2) undivided interest in Lot 7 [hereinafter collectively referred to as "Phase 1"] to the Condominium Documents, including but not limited to the Act by the recording of this Declaration and the Breezewood II Plat(s) and Plan(s); and

WHEREAS, it is intended that certain Shared Amenities as hereinafter defined shall serve and be used by both the Breezewood I Condominium Regime and the Breezewood II Condominium Regime.

NOW THEREFORE, Declarant, pursuant to the Act, and with the consent and approval of Falls Landing Developers, LLC, as a co-tenant owner with the Declarant of Lot 7, hereby declares that Phase 1 of the Breezewood II Condominium Regime shall be owned, held, used, transferred, and conveyed subject to the terms and provisions of this Declaration, which Declaration shall run with Phase 1 of the Breezewood II Condominium Regime and be binding on all parties having any right, title, or interest therein, their heirs, successors, and assigns.

1. **DEFINITIONS.** Unless the context clearly indicates otherwise, the following capitalized words and phrases shall have the indicated meanings when used in this Declaration or any amendment hereto:

"Act" means the North Carolina Condominium Act (Chapter 47C of the North Carolina General Statutes), as amended from time to time, or any corresponding provisions of succeeding law.

"Additional Phases" means Phase 2, Phase 3 and Phase 4 of Lot 4, and Lot 5 as shown and more fully described on the Breezewood II Plat(s) which may hereafter be improved, annexed into and made a part of the Breezewood II Condominium Regime. Unless and until Phase 2, Phase 3 and Phase 4 of Lot 4 and Lot 5 are improved, the same shall not be subjected to the lien and operation of this Declaration.

"Affiliated Association" means the unit owners association formed in connection with the Breezewood I Condominium Regime.

"Affiliated Association Board" means the Board of Directors for the Breezewood I Association or the Master Association as the context may require.

"Affiliated Association Rules & Regulations" means the rules and regulations governing the Breezewood I Condominium Regime as adopted by the Affiliated Association Board from time to time.

"Allocated Common Element Interest or Allocated Common Element Interests" means the undivided interests in the Common Elements allocated to each Unit in the Breezewood II Condominium Regime, as initially set forth on **Exhibit "D"**, attached hereto and incorporated herein by reference as the same may be modified or adjusted hereafter as Additional Phases of the Breezewood II Property are improved and annexed into and made a part of the Breezewood II Condominium Regime. Accordingly as Additional Phases of the Breezewood II Regime are annexed, any then existing Owner of a Unit in the Breezewood II Condominium Regime shall have his or her Allocated Common Element Interest reduced accordingly. The Allocated Common Element Interests shall be expressed as a numerical percentage and, except for minor variations due to rounding, the aggregate percentages for all of the Units in the Breezewood II Condominium Regime at any one time shall equal one hundred percent (100%).

"Allocated Shared Common Element Interest or Allocated Shared Common Element Interests" means the undivided interests in the Shared Common Elements allocated to each Unit in the Breezewood I Condominium Regime and the Breezewood II Condominium Regime, each allocation being on a pro rata basis and being reallocated each time Additional Phases of Breezewood II Condominium are completed and annexed into the said Breezewood II Condominium Regime. The initial Allocated Shared Common Element Interests are set forth on **Exhibit "E"**, attached hereto and incorporated herein by reference as the same may be adjusted and reallocated hereafter as the Additional Phases of the Breezewood II Property are improved and annexed into and made a part of the Breezewood II Condominium Regime. Accordingly as and when the Breezewood I Condominium Regime is established and as Additional Phases of the Breezewood II Regime are annexed, any then existing Owner of a Unit in the Breezewood II Condominium Regime shall have his or her Allocated Shared Common Element Interest reduced accordingly. The Allocated Shared Common Element Interests shall be expressed as a numerical percentage and, except for minor variations due to rounding, the aggregate Allocated Shared Common Element Interests for all of the units within the Breezewood I Condominium Regime and all of the Units in the Breezewood II Condominium Regime at any one time shall equal one hundred percent (100%).

"Annual Assessments" means the assessments described in Article 8 hereof and include both the Association Annual Assessments and the Master Association Annual Assessments.

"Association Articles" means the Articles of Incorporation for Breezewood II Condominium Unit Owners Association, Inc. A true copy of the Association Articles is attached hereto as **Exhibit "F"**.

"Association Assessment" means an owner's share of the Common Expenses or other charges from time to time assessed against an Owner by the Association pursuant to the terms of this Declaration; including, but not limited to the Annual Assessments, the Special Assessments, and other assessments authorized by Article 8 hereof.

"Association" means Breezewood II Condominium Unit Owners Association Inc., a nonprofit North Carolina corporation its successors and assigns formed for purposes of managing and operating the Common Elements.

"Association Board" or "Association Executive Board" means the Board of Directors for the Association.

"Association Bylaws" means the Bylaws of the Breezewood II Condominium Unit Owners, Association, Inc. A true copy of the Association Bylaws is attached hereto as **Exhibit "G".**

"Association Rules & Regulations" means the rules and regulations governing the Breezewood II Condominium Regime as adopted by the Association Board from time to time.

Association Approved Budget" means the budget approved by the Association pursuant to Section 8.5.2.

"Association Surplus Funds" means funds collected by the Association pursuant to this Declaration or otherwise which are not needed to pay current Common Expenses or reserves provided for in this Declaration.

"Breezewood I Condominium Regime" means the condominium regime established or to be established by the Declarant on the Breezewood I Property.

"Breezewood II Condominium Regime" means the condominium regime established on the Breezewood II Property.

"Breezewood I Plan(s)" means the "As Built" Plan(s) of the units within the Breezewood I Condominium Regime which may be filed hereafter in the office of the Wake County Register of Deeds, including but not limited to any re-recordings thereof.

"Breezewood II Plan(s)" means the "As Built" Plan(s) of the Units for the Breezewood II Condominium Regime that are a part of the Breezewood II Plat(s) and Plan(s) filed in Condominium File 499 at Page(s) A1 through C3 in the office of the Wake County Register of Deeds, including but not limited to any re-recordings thereof and the plans for the Additional Phases of the Breezewood II Condominium Regime, if such Additional Phases are established.

"Breezewood I Plat(s)" means the plat(s) of Survey of the Breezewood I Property which may be filed hereafter in the condominium files in the office of the Wake County Register of Deeds, including but not limited to any re-recordings thereof.

"Breezewood II Plat(s)" means the plat(s) of survey of the Breezewood II Property comprising the Breezewood II Condominium Regime, that are a part of the Breezewood II Plat(s) and Plan(s) filed in Condominium File 499, at Page(s) A1 through C3 in the office of the Wake County Register of Deeds, including but not limited to any re-recordings thereof and the plats for the Additional Phases of the Breezewood II Condominium Regime if such Additional Phases are established.

"Breezewood I Plat(s) and Plan(s)" means both the Breezewood I Plat(s) and the Breezewood I Plan(s) referenced above.

Breezewood II Plat(s) and Plan(s)" means both the Breezewood II Plat(s) and the Breezewood II Plan(s) recorded in Condominium File 499 at Page(s) A1 through C3 in the Office of the Wake County Register of Deeds, including any re-recordings thereof and the plat(s) and plan(s) for any Additional Phases of the Breezewood II Condominium Regime if established.

" Breezewood I Property" means Lots 1, 2, and 6 and Falls Landing Developers, LLC's one-half (1/2) undivided interest in Lot 7 (such one-half (1/2) undivided interest in Lot 7 being

subject to a shifting executory interest) shown and more fully described on those certain plats recorded in Book of Maps 2008, Page 01872 in the office of the Wake County Register of Deeds, as the same pertains to Lot 1, Book of Maps 2008, Pages 1801 and 1802 in the office of the Register of Deeds of Wake County as the same pertains to Lot 2 and Book of Maps 2008, Pages 1803 and 1804 in the office of the Register of Deeds of Wake County as the same pertains to Lot 6 and Lot 7, together with all improvements and structures located thereon, including, without limitation, the units and the garage units, the Swimming Pool and Related Facilities and all easements, rights and appurtenances related thereto, such property, improvements and structures being collectively known as the Breezewood I Condominium Regime as the same may hereafter be further defined in the declaration for the Breezewood I Condominium Regime, if established.

"Breezewood II Property" means Phase I of the Breezewood II Condominium Regime together with all improvements and structures located thereon, including, without limitation, the Units, the Swimming Pool and Related Facilities and all easements, rights and appurtenances related thereto, as more specifically described on the Breezewood II Plat(s) and Plan(s) and as further defined in this Declaration. As Additional Phases are constructed and annexed into the Breezewood II Condominium Regime, the Breezewood II Property shall also include such Additional Phases as are constructed hereafter on Lot 4 and Lot 5 shown on the Breezewood II Plat(s) as being "RESERVED FOR FUTURE DEVELOPMENT".

"Building" means a multi-unit residential structure constructed on the Breezewood II Property and included within the Breezewood II Condominium Regime.

"Certificate of Completion" means those certain Certificates of Completion for the Breezewood II Condominium Regime, Phase I executed by Nariman Abar, Professional Engineer, as to the structural components and Richard A. Melling, Professional Engineer, as to the mechanical systems, the originals of which are attached hereto and marked as **Exhibits "H-1" and "H-2"** respectively.

"Common Elements" means all real property within the Breezewood II Condominium Regime (other than the Units, Limited Common Elements and Shared Common Elements), all Improvements constructed on the Breezewood II Property (but excluding the Shared Amenities), the easements granted thereto for the common use and enjoyment of the Owners, which are not otherwise dedicated to a governmental entity or serving fewer than all of the Units, and generally including all property and rights owned by, leased to, or licensed to the Association for the common use and enjoyment of the Owners. Common Elements are more specifically described in Section 4.1.

"Common Expense Liability" means the pro rata liability for Common Expenses allocated to each Unit in accordance with the Allocated Common Element Interests as initially set forth on **Exhibit "D"**, attached hereto and incorporated herein by reference and as otherwise determined in accordance with this Declaration. The Common Expense Liability shall be expressed as a numerical percentage and, except for minor variations due to rounding, the aggregate percentages for all of the Units at anyone time shall equal one hundred percent (100%).

"Common Expenses" means all expenditures lawfully made or incurred by or on behalf of the Association and as otherwise described in Section 8.2.

"Condominium Documents" means this Declaration, the declaration for the Breezewood I Condominium Regime, the Association Articles, the Association Bylaws, the Master Association Articles, the Master Association Bylaws, the Breezewood II Plat(s) and Plan(s), the Public Offering Statement, and the Act.

"County" means the county or counties in which the Breezewood I Property and the Breezewood II Property are located.

"Declarant" means Wake North Developers, LLC and its successors and assigns.

"Declarant Control Period" means, subject to the provisions of the Act with respect to the Declarant's control of the Association the period commencing on the date of recordation of this Declaration with the County Registry and continuing until the earlier of: (a) December 31, 2022; (b) the Declarant or its successors no longer owns any of the Property; (c) the date the Declarant owns title to twenty-five percent (25%) or less of the total number of Units in the Condominium (provided that the Declarant Control Period shall be reinstated with all rights and privileges if the Condominium is expanded as provided in this Declaration and such expansion results in Declarant owning title to more than twenty-five percent (25%) of the Units in the Condominium); or (d) the Declarant transfers, in writing, the Development Rights to the Association.

Notwithstanding the foregoing, at any time and from time to time, the Declarant, acting alone, shall upon the request of Falls Landing Developers, LLC, execute any declaration, including any amendments thereto, necessary or required for establishing the Breezewood I Condominium Regime on the Breezewood I Property, inclusive of Falls Landing Developers, LLC's one-half (1/2) undivided interest in Lot 7.

"Declaration" means this document and all subsequent amendments, if any.

"Development Rights" all rights of control and/or approval granted to Declarant, as Declarant, under this Declaration, including, but not limited to, the rights granted under Articles 5 & 6 hereof.

"Family Members" means the spouse, parents, parents-in-law, brothers, sisters, children, and grandchildren of the designated individual.

"Foreclosure" means, without limitation, the judicial foreclosure of a Mortgage or the conveyance of the secured property by a deed in lieu of foreclosure of a Mortgage.

"Governmental Mortgagee" refers to the Federal Housing Administration, the Department of Housing and Urban Development, the U.S. Department of Veterans Affairs, and related entities.

"Improvements" means any structure of any type or kind, including, but not limited to buildings, outbuildings, parking areas, loading areas, screening walls retaining walls, fences, hedges, mass plantings, lawns, sidewalks, poles, signs, and utility lines and facilities, retaining walls, decorative walls, dumpster pads and related components, save and except any Improvements constructed on the Jointly Owned Property.

"Initial Sale" means the date of the first conveyance of a Unit to an Owner other than Declarant or a Person succeeding to Declarant's rights.

"Jointly Owned Property" means Lot 7 as shown and more fully described on the Breezewood I Plat(s) and the Breezewood II Plat(s) and being the same property as comprises the Shared Common Elements. The Jointly Owned Property is sometimes also referred to herein as Lot 7 and is subject to a shifting executory interest more fully described in that certain deed from Breezewood Holdings, LLC to Wake North Developers, LLC recorded in Book 013267, Page 02550 in the office of the Wake County Register of Deeds.

"Law" shall mean any local, state or federal rules, regulations or laws which may apply to the Condominium or any Person who maintains an interest in the Condominium or a Unit, including, but not limited to, the Zoning Entity's ordinances, codes, and regulations.

"Limited Common Element" or "Limited Common Elements" means a portion of the Common Elements allocated by this Declaration or the Breezewood II Plat(s) and Plan(s) for the exclusive use of one or more, but fewer than all, of the Units and as more specifically described in Section 4.2.

"Lot 8" means that certain area depicted on Sheets One (1) of Twenty (20), two (2) of twenty (20) and twenty (20) of twenty (20) of the Breezewood II Plat(s) labeled thereon as Lot 8, and is a remnant parcel of land created at the time the road system serving the Property was originally platted by the original developer. A copy of that plat entitled "Breezewood of Raleigh, Inc. - Right-of-Way Dedication Plat" is recorded in Book of Maps 1999, Page 576 in the Office of the Wake County Register of Deeds (herein referred to the "Original Right-of-Way Dedication Plat"). The area encompassing Lot 8, while depicted on the Original Right-of-Way Dedication Plat, is not labeled as such on the Original Right-of-Way Dedication Plat. Lot 8 is not a part of the Breezewood II Condominium Regime.

"Majority in Interest" means, with respect to any referenced group of Owners, a combination of any of those Owners who, in the aggregate, own more than fifty percent (50%) of the Allocated Common Element Interests owned by all of that referenced group of Owners.

"Master Association" means Breezewood Condominium Master Association, Inc., its successors and assigns organized and formed for purposes of managing and regulating the Shared Common Elements serving both the Breezewood I Condominium Regime and the Breezewood II Condominium Regime.

"Master Association Articles" means the Articles of Incorporation of Breezewood Condominium Master Association, Inc. A true copy of the Master Association Articles is attached hereto as **Exhibit "I"**.

"Master Association Assessment" means assessments described in Article 8 hereof.

"Master Association Board" means the Board of Directors of Breezewood Condominium Master Association, Inc. The Master Association Board shall consist of not less than three (3) but not more than seven (7) Owners of units in the Breezewood I Condominium Regime and not less than three (3) but not more than seven (7) Owners of Units in the Breezewood II Condominium Regime, it being required that there always be an equal number of Master Association Board Members from each such condominium regime on the Master Association Board. In addition to the Unit Owner Members referenced above, there shall also always be a non-owner Master Association Board member to protect against the possibility that the Master Association Board members may vote on Master Association business along condominium regime lines thereby resulting in an inability of the Master Association Board to conduct the business and affairs of the Master Association. The property manager having day to day oversight over the Master Association operations and the Shared Common Elements shall be and is hereby appointed the ex officio non-owner Member of the Master Association Board but shall cast a vote only in the event of a tie vote of the other Master Association Board members in connection with matters affecting the Master Association. The selection of the property manager or property management company to manage and oversee the operation of the Master Association and the Shared Common Elements shall be selected by a majority vote of all Unit Owners in both the Breezewood I Condominium Regime and the Breezewood II Condominium Regime at a duly authorized meeting of both the Association and the Affiliated Association such meeting to be held annually or at such other time as may be permitted by the Bylaws of the Master Association or applicable law.

"Master Association Bylaws" (or "By-Laws of the Master Association" as referenced in the Master Association Articles) means, Bylaws of Breezewood Condominium Master Association, Inc. A true copy of the Master Association Bylaws is attached hereto as **Exhibit "J"**.

"Master Association Rules & Regulations" means the rules and regulations governing the Shared Common Elements as adopted by the Master Association Board from time to time.

"Master Association Surplus Funds" means funds collected by the Master Association pursuant to this Declaration or otherwise which are not needed to pay current Shared Common Elements or reserves provided for in this Declaration.

"Member" means every Person who holds membership in the Association and the Master Association.

"Mortgage" means a mortgage, deed of trust, installment land sales contract, security agreement or other similar security instrument granting, creating, or conveying a first lien upon a Unit.

"Mortgagee" means the holder, insurer or guarantor of a Mortgage.

"Occupants" means any individual(s) in possession of a Unit, including Owners, Family Members, lessees, guests and invitees of such individual(s) and Family Members, guests and invitees of such lessees.

"Owner" or "Unit Owner" means the record owner, whether one or more Persons, of a fee simple title to any Unit, except those having an interest merely as security for the performance of an obligation, and will include Declarant for so long as it owns one or more Units.

"Permitted Encumbrances" means those encumbrances of record in the office of the Register of Deeds for Wake County, North Carolina affecting title to the Breezewood II Property which are set forth on **Exhibit "K"** attached hereto and made a part hereof.

"Person" means an individual, a trust, an estate, or a domestic corporation, a foreign corporation, a professional corporation, a partnership, a limited partnership, a limited liability company, a foreign limited liability company, an unincorporated association, or other entity.

"Private Streets" means any streets designated as private on the Breezewood I Plat(s) and the Breezewood II Plat(s). The Private Streets have not been accepted for maintenance by the Zoning Entity. Maintenance of the Private Streets shall be the Association's sole responsibility unless and until such time as they shall be accepted by the Zoning Entity.

"Project" means the complete development situated on the entire 34.4 acres of land comprising Lots 1, 2, 3, 4, 5, 6, and 7 as shown and more fully described on the Breezewood I Plat(s) and the Breezewood II Plat(s) including all improvements now or hereafter constructed thereon comprising the Breezewood I Condominium Regime, and all Common Elements, Limited Common Elements and Shared Common Elements appurtenant thereto and the Breezewood II Condominium Regime and all Common Elements, Limited Common Elements and Shared Common Elements appurtenant thereto.

"Property" means and refers to that certain tract of land consisting of approximately 34.4 acres more or less described in those certain deeds recorded in Book 012378, Page 00346, Book 012378, Page 00351 and Book 012378, Page 00356 in the office of the Wake County Register of Deeds.

"Public Offering Statement" means the statement described in Section 47C-4-103 of the Act.

"Shared Amenities" means the Swimming Pool and Related Facilities constructed on the Lot 7 for the common use of the owners of units in the Breezewood I Condominium Regime and the Owners of Units in the Breezewood II Condominium Regime.

"Shared Common Element" or Shared Common Elements" means Lot 7 as shown and more fully described on the Breezewood I Plat(s) and Plan(s) and the Breezewood II Plat(s) and Plan(s) and any improvements now existing or hereafter constructed thereon, and including but not limited to the Swimming Pool and Related Facilities. Shared Common Elements may also include any real property that may be acquired by the Master Association.

"Shared Common Expenses" means all expenditures lawfully made or incurred by or on behalf of the Master Association and as otherwise described in Section 8.3.

"Shared Common Expense Liability" means the pro rata liability for Shared Common Expenses allocated to each Unit in the Breezewood II Condominium Regime and each unit in the Breezewood I Condominium Regime as initially set forth on Exhibit "E", attached hereto and incorporated herein by reference and as otherwise determined in accordance with this Declaration and the declaration for the Breezewood I Condominium Regime. The Shared Common Expense Liability shall be expressed as a numerical percentage and, except for minor variations due to rounding, the aggregate percentages for all of the Units at anyone time shall equal one hundred percent (100%).

"Special Assessments" means the assessments described in Section 8.6 hereof.

"Swimming Pool and Related Facilities" means the swimming pool and any other improvement related thereto situated on Lot 7 more fully shown and described on the Plat.

"Unit" means a: (i) single residential dwelling constructed within a Building, other than Common Elements, designated for separate ownership or occupancy, together with its percentage of undivided interest in the Common Elements and Shared Common Elements, and any Limited Common Elements, as further described in this Declaration and the Breezewood II Plat(s) and Plan(s). In no event shall it include any structure which is not reflected on a recorded Plat or any structure owned by the Declarant for which the Improvements have not been completed.

"Unit Owner" or "Owner" means the record owner, whether one or more Persons, of a fee simple title to any Unit, except those having an interest merely as security for the performance of an obligation, and will include Declarant for so long as it owns one or more Units.

"Unsold Unit" means any Unit which has not, at any time, been the subject of an Initial Sale.

"Zoning Entity" means the governmental entity having zoning jurisdiction over the Property as of the date of determination.

Except as specifically provided to the contrary above, these defined terms shall be construed in a manner consistent with the comparable definitions included in the Act.

2. GENERAL

2.1. Submission to Act. Declarant submits Phase 1 of the Breezewood II Condominium Regime to the terms and provisions of the Condominium Documents, including but not limited to the Act. The Breezewood II Property, inclusive of all Additional Phases, will be administered in accordance with the provisions of the Condominium Documents and the Act. The Act contemplates that certain of its provisions may be superseded by provisions of Articles of Incorporation, Bylaws, a declaration, or other agreement of the Members. It is the intent of the parties that in the event of a conflict among the Condominium Documents, and the Act, the Condominium Documents (other than the Act) shall control and supersede the Act where permitted by law.

2.2. Condominium Name. The name of the condominium shall be "Breezewood II Condominium Regime". Declarant initially establishes one hundred twenty four (124) Units within Phase 1 of the Breezewood II Condominium Regime and designates all such Units for separate ownership. Reference is made to this Declaration and the Breezewood II Plat(s) and Plan(s) for a separate description of the boundaries of each Unit, identified by number. The maximum number of Units which Declarant reserves the right to create as a part of the Breezwood II Condominium Regime is two hundred twelve (212) Units. There are no Limited Common Elements with the exception of the Limited Common Elements described in G.S. §47C-2-102(2) & (4), Section 4.2 of this Declaration and as or may hereafter be shown on the Breezewood II Plat(s) and Plan(s).

3. UNITS

3.1. Identification. Identification information for each Unit is set out in **Exhibit "D"** attached hereto and incorporated herein by reference and includes: (i) its designation number with a separate street address; and (ii) the Allocated Common Element Interests appurtenant to each Unit. **Exhibit "E"** attached hereto and incorporated herein by reference contains the Allocated Shared Common Element Interests appurtenant to each unit to be established in the Breezewood I Condominium Regime and each Unit in the Breezewood II Condominium Regime. The precise location of each Unit within each Building in the Breezewood II Condominium Regime is shown on the Breezewood II Plat(s) and Plan(s).

3.2. Boundaries.

3.2.1. The space making up a Unit shall be bounded as follows:

(i) The lower boundary of the Units shall be a horizontal plane (or planes) the elevation of which coincides with the depth of elevation that is four (4) feet below the finish first floor elevation of the concrete slab of the Buildings and shall include the foundations and footers. Such lower boundary shall coincide with and be the same plane or planes as is referred to in the Engineer's certificate on the Breezewood II Plan(s) as the "floors".

(ii) The upper boundary of the Units shall include the uppermost surface of the outer shingle or other coverings of the roof at its peak, and shall extend to the air space above to a horizontal plane two (2) feet above. Such upper boundary shall coincide with and be the same plane or planes as is referred to in the Engineer's certificate on the Breezewood II Plan(s) as the "ceilings".

(iii) The two (2) sides of the Unit shall, respectively, correspond to the two (2) sidewalls of the Unit in the following manner (a) With respect to any of the sidewalls which constitute a party wall, the side of the Unit corresponding thereto shall pass through the center thereof so as to enclose one-half (1/2) of the thickness of such party wall and such plane shall continue through to the upper and lower boundaries; and (b) With respect to any of the said sidewalls which do not constitute a party wall, the side of the Unit corresponding thereto shall correspond with the two (2) feet beyond the outermost finished exterior surface wall protrusion thereof and such plane shall continue through to the upper and lower boundaries.

(iv) The front of the Units shall correspond with the two (2) feet beyond the outermost finished exterior surface wall protrusion thereof to connect with the sides, tops and bottoms of the Units.

(v) The rear of the Unit shall, respectively, correspond to the rear walls of the Unit in the following manner: (a) With respect to any of the rear walls which constitute a party wall, the rear of the Unit corresponding thereto shall pass through the center thereof so as to enclose one-half (1/2) of the thickness of such party wall and such plane shall continue through to the upper and lower boundaries; and (b) With respect to any of the said rear walls, which do not constitute a party wall, the rear of the Unit corresponding thereto shall correspond with two (2) feet beyond the outermost finished exterior surface wall protrusion thereof and such plane shall continue through to the upper and lower boundaries.

Each Unit includes, and the respective Owner shall be responsible for: (i) the front entrance door and any other entrance doors to that Unit; (ii) the interior walls, partitions, wood floors and floor coverings, and plastered ceilings affixed, attached, or appurtenant to that Unit; (iii) all windows (including, without limitation, their panes, casements, and frames) located within or opening from, that Unit; (iv) all equipment, fixtures, stairways, and appliances (including without limitation, lighting and electrical fixtures, heating and cooling equipment, plumbing facilities, sinks, bathtubs, toilets, refrigerators, ovens, ranges, dishwashers, pipes for water and wastewater, gutters, downspouts and drains, roofs, and any other appliances) affixed, attached, or appurtenant to that Unit; and (v) all other facilities affixed, attached, or appurtenant to that Unit and benefiting only that Unit, whether or not such is located within the space described above, including, but not limited to all exterior electrical fixtures, shutters, fireplaces, fireplace flues, fireplace chases, flue caps, antennas, and railings. Any Common Elements located within a Unit shall not, however, be considered a part of that Unit.

3.3. Interior Alterations. Except as may otherwise be provided in the Condominium Documents, each Owner shall have the right, exercisable at any time and from time to time, to install, at that Owner's sole cost and expense, those decorations, fixtures, and coverings (including, without limitation, painting, finishing, wall papering, carpeting, pictures, mirrors, shelving, and lighting fixtures) on the surfaces of the walls, ceilings, and floors that face the interior of that Owner's Unit and to a depth of one inch behind such surfaces for the purposes of installing nails, screws, bolts and the like, and to alter or remove interior walls, in whole or in part, in order to change that Units layout, or to improve the Unit, provided that no such installation, alteration, removal, or change shall impair the structural integrity of that Unit or of the Building of which it is a part or violate any Law. The Association reserves the right to regulate the exterior appearance of the window coverings and treatments installed on all Unit windows.

3.4. Association Access. The Association or its designee shall have the right of access to any Unit during reasonable hours of the day and, in the event of emergencies, at any time: (i) to make inspections, repairs, replacements, or improvements to the Common Elements within a Unit; (ii) to remedy conditions of the Unit itself which could result in damage to other portions of the Building of which the Unit is a part; (iii) to abate any violation of Law or applicable Association Rules & Regulations or Master Association Rules & Regulations; or (iv) to otherwise perform its obligations under this Declaration.

4. COMMON ELEMENTS/LIMITED COMMON ELEMENTS/SHARED COMMON ELEMENTS

4.1. Common Elements. The "Common Elements" consist of all other parts of the Breezewood II Property, exclusive of the Units and Limited Common Elements themselves, and include, but are not limited to, the following:

(i) Easements for access to and for maintenance; repair, reconstruction; or replacements of the structures, equipment, installations, and appurtenances, and for all other services necessary or convenient to the existence, maintenance, safety, and use by the Breezewood II Condominium Regime.

(ii) The compartments or installations of central services such as power, light, gas, hot and cold water pumps and lines, sanitary and storm water systems, and the like serving the Units.

(iii) All facilities located under the ground unless serving an individual Unit or otherwise defined by this Declaration or the Breezewood II Plat(s) and Plan(s) as part of the Units or as Limited Common Elements.

(iv) At the ground level and extended from there upwards, all of the area not included in the Units or described as Limited Common Elements

or so shown on the Plat as Limited Common Elements. Such Common Elements shall include, but not be limited to, sidewalks and walkways.

(v) Central and appurtenant installations for services such as electricity, telephone, water, stairs, lobby, fire protection, garbage and sewage disposal, and for other services for common use in the Breezewood II Condominium Regime.

(vi) Improvements (e.g., fences, retaining walls, and the like) located on Common Elements as the case may be.

(vii) All areas and facilities shown on the Breezewood II Plat(s) including, without limitation, easements, storm drainage facilities, water and sewer lines located outside any Zoning Entity utility easement or publicly dedicated right-of-way, private streets, drives, parking areas (subject to allocation of parking spaces by the Declarant or the Association Board), lawn areas, fields, trees, shrubbery, and other landscaping, conduits, storm drains, detention basins, water lines and sewer lines located outside public street rights of way and City of Raleigh utility easements, utility lines and lighting in the Common Elements and Shared Common Elements.

(viii) All those areas so designated on the Breezewood II Plat(s).

(ix) All other elements of the Breezewood II Condominium Regime rationally of common use or necessity for its existence, upkeep and safety shall be Common Elements, except the Shared Common Elements which shall be and shall remain Shared Common Elements as that term is defined in Article 1 hereof.

(x) Maintenance of the extended dry stormwater detention basin which maintenance shall be in strict compliance with the Stormwater Operations and Maintenance Manual and Budget attached to the Stormwater Replacement Protection Easement and Access Maintenance Agreement and Lump Sum Replacement Contribution Contract referenced in Section 8.2 hereof.

4.2. Limited Common Elements. The Limited Common Elements are those identified as such in this Declaration or designated as such on the Breezewood II Plat(s) and Plan(s) and such others as are agreed upon to be reserved for the exclusive use of one or more, but less than all, of the Unit Owners. All Limited Common Elements are reserved for the exclusive use of the Owner(s) of the Units which they serve or to which they are declared to be appurtenant by appropriate designation on a Plat. Limited Common Elements shall be maintained by the Unit Owner(s) who have the exclusive use thereof and failure to so maintain may result in assessments against any such Owner(s). The Limited Common Elements shall include, but not be limited to: (i) common plumbing, vent and waste lines serving both adjacent Units; (ii)

patios, decks and porch slabs; (iii) front yards and rear yards so designated as Limited Common Elements on the Breezewood II Plat(s) and Plan(s); (iv) privacy fences and rear fences on Limited Common Elements; (v) sidewalks, steps and stoops for ingress and egress to Units and (vi) sprinkler riser rooms serving individual Buildings and the Units within those Buildings.

4.3. Shared Common Elements. The Shared Common Elements shall consist of Lot 7 in its entirety, the Swimming Pool and Related Facilities, any fencing that may enclose the same, any future improvements that maybe constructed on Lot 7 as well as any other areas designated herein or on the Breezewood I Plat(s) and Plan(s) and the Breezewood II Plat(s) and Plan(s) as Shared Common Elements and such other areas as are agreed upon to be reserved for use by both the owners of units in the Breezewood I Condominium Regime and Owners of Units in the Breezewood II Condominium Regime. All Shared Common Elements are hereby declared to be appurtenant to any and all condominium units in the Breezewood I Condominium Regime and any and all Units in the Breezewood II Condominium Regime.

The Shared Common Elements shall be maintained, operated and regulated by the Master Association, which Master Association shall be and it is hereby authorized to collectively assess units in the Breezewood I Condominium Regime and Units in the Breezewood II Condominium Regime, as it deems necessary to properly maintain and operate the Shared Common Elements in both a safe and first class condition. Notwithstanding the foregoing, such assessments shall be uniform as to each and every unit in the Breezewood I Condominium Regime and each and every Unit in the Breezewood II Condominium Regime.

4.4. Title to the Common Elements and Shared Common Elements. Every Owner of a Unit in the Breezewood II Condominium Regime shall own an undivided interest in the Common Elements of the Breezewood II Condominium Regime and in the Shared Common Elements and shall have a right and easement of enjoyment in such Common Elements and Shared Common Elements (the "Owners' Easement") which Owners' Easement shall be appurtenant to and shall pass with the title to every Unit in the Breezewood II Condominium Regime. Similarly every owner of a unit in the Breezwood I Condominium Regime shall own an undivided interest in the Shared Common Elements and shall have a right and easement of enjoyment in the Shared Common Elements (the "Affiliated Owners Easement"), which Affiliated Owners Easement shall be appurtenant to and shall pass with the title to every unit in the Breezewood I Condominium Regime.

4.5. Transfer of Common Elements and Shared Common Elements. The Common Elements and the Shared Common Elements shall remain undivided, and shall be conveyed as an appurtenance to the Units and no Unit Owner or any other Person shall bring, or shall have the right to bring any action for partition or division thereof, except as is expressly permitted pursuant to the terms of this Declaration and/or the Association Bylaws, or the Master Association Bylaws as applicable. Further, any conveyance, encumbrance, judicial sale, or other transfer (whether voluntary or involuntary) of any individual interest in the Common Elements or the Shared Common Elements will be void unless the Unit to which such interest is allocated is also transferred. Neither the Breezewood I Association nor the Breezewood II Association may transfer or encumber all or any part of the Shared Common Elements.

4.6. Allocated Common Element Interests. In the event Additional Phases are improved, Units are established thereon and such Additional Phases are annexed into and made a part of the Breezewood II Condominium Regime, any amendment to the Declaration recorded for purposes of establishing such Additional Phases shall also adjust and reallocate the Allocated Common Element Interests to all Units in the Breezewood II Condominium Regime as follows:

> The Allocated Common Element Interests for a Unit shall be determined by dividing the number one (1) by the new total number of Units then existing. Except for such reallocations, the Allocated Common Element Interests in the Common Elements allotted to each Unit shall not be changed except with the unanimous consent of all of the Owners of all of the Units and with the consent of all of the Mortgagees holding deeds of trust secured by a Unit or Units within the Breezewood II Condominium Regime.

4.7. Allocated Shared Common Element Interests. In the event the Additional Phases are improved, Units are established thereon and such Additional Phases are annexed into and made a part of the Breezewood II Condominium Regime, any amendment to the Declaration recorded for purposes of establishing such additional Units shall also reallocate the Allocated Shared Common Element Interests to all Units in the Breezewood II Condominium Regime and all units as may then be existing in the Breezewood I Condominium Regime as follows:

> The Allocated Shared Common Element Interests for units in the Breezewood I Condominium Regime and for Units in the Breezewood II Condominium Regime, shall be determined by dividing the number one (1) by the new total number of Units then existing in each of said regimes combined. Except for such reallocations, the Allocated Shared Common Element Interests allotted to each unit within both the Breezewood I Condominium Regime and each Unit within the Breezewood II Condominium Regime shall not be changed except with the unanimous consent of all of the Owners of all of the Units in the Breezewood II Condominium Regime with the consent of all of the Mortgagees holding deeds of trust secured by a Unit or Units within the Breezewood II Condominium Regime and the unanimous consent of all of the owners of all the units in the Breezewood I Condominium Regime with the consent of all of the Mortgagees holding deeds of trust secured by a unit or units within the Breezewood I Condominium Regime.

4.8. Parking Areas/Parking Spaces. Each Owner and its guests, in common with the other Owners and their guests, shall be entitled to the non-exclusive use of the automobile parking space(s), if any, located within the Shared Common Elements, together with the right of ingress and egress in and to these parking space(s), including any parking spaces serving the Swimming Pool and Related Facilities and other Shared Common Elements to the extent any

such parking spaces serving the Shared Common Elements are not already being used at that time by another Owner or the guests and invitees of such other Owner. For purposes of this section, reference to Owner shall include any owner of a unit in the Breezewood I Condominium Regime as well as the owner of a Unit in the Breezewood II Condominium Regime each and all of whom share the Swimming Pool and Related Facilities and other Shared Common Elements. The Declarant, during the Declarant Control Period, reserves unto itself and thereafter unto the Association, the right to assign parking spaces for each Unit in the Breezewood II Condominium Regime. Similarly the Declarant, during the Declarant Control Period, reserves unto itself and thereafter unto the Master Association the right to regulate, restrict and control parking serving the Shared Common Elements. Subject to all applicable governmental ordinances and approval of City of Raleigh, during the Declarant Control Period, Declarant reserves the right to establish additional areas of parking within the Common Elements and the Shared Common Elements as Declarant, in its discretion, may determine are needed.

4.9. Owners' Easement of Enjoyment. Every Owner shall have a non-exclusive right and easement of use and enjoyment in and to the Common Elements and the Shared Common Elements including specifically an easement for access, ingress and egress from and to public and private streets, common parking, and walkways. The Owners' Easement shall be appurtenant to and shall pass with the title to every Unit. The Owners' Easement and an Owner's undivided interest in the Common Elements and Shared Common Elements are subject to the following:

4.9.1. Subject to all applicable governmental ordinances, the Association's right to dedicate or transfer all or any part of the Common Elements to any public agency, authority, utility, or non-profit corporation. No such dedication or transfer shall be effective unless an instrument signed by eighty percent (80%) of the Allocated Common Element Interests agreeing to the dedication or transfer has been recorded in the Wake County Registry. Any dedication or transfer shall be made subject to that portion of the Owners' Easement providing for access, ingress and egress to public streets and walkways serving the Breezewood II Condiminium Regime and the Breezewood I Condominium Regime.

4.9.2. Subject to all applicable governmental ordinances, the Master Association's right to dedicate or transfer all or any part of the Shared Common Elements to any public agency, authority, utility, or non-profit corporation. No such dedication or transfer shall be effective unless an instrument signed by eighty percent (80%) of the Shared Common Element Interests of both the Breezewood I Condominium Regime and the Breezewood II Condominium Regime agreeing to the dedication or transfer has been recorded in the Wake County registry. Any dedication or transfer shall be made subject to that portion of the Owners' Easement providing for access, ingress and egress to public streets and walkways serving the Breezewood II Condiminium Regime and the Breezewood I Condominium Regime.

4.9.3. The Association's right, in accordance with the Condominium Documents, to borrow money for the purpose of improving the Common Elements and the Shared Common Elements and to mortgage those properties to secure those borrowings; provided the mortgage is subordinate to the Owners' Easement.

4.9.4. The Association's right to suspend the voting rights and the right to use any Common Elements by any Owner, his family, guests, etc., for any period during which any assessment against his Unit remains unpaid. The right to use the Common Elements may also be suspended for a period, not to exceed one hundred twenty (120) days, for the infraction of the Association's Rules & Regulations; provided; however, that if the infraction is continuing in nature, the suspension may be enforced until such infraction is cured.

4.9.5. The Association's right to impose and enforce the Association Rules & Regulations which may restrict the use and enjoyment of the Common Elements and the Master Association's right to impose and enforce the Master Association Rules & Regulations which may restrict the use and enjoyment of the Shared Common Elements as the case may be.

4.9.6. The Association, the Master Association and the Declarant, as their interests may appear, shall have the authority to grant and/or establish upon, over, under and across the Common Elements and the Shared Common Elements further easements (including, but not limited to those provided in this Declaration) as are required for the convenient use and enjoyment of the Breezewood II Property.

4.9.7. Subject to all applicable governmental ordinances the right of the Master Association to charge reasonable admission and other fees for the use of any Shared Amenities.

4.9.8. The Master Association's right to suspend the voting rights and the right to use any Shared Amenities by any Owner, his family, guests, etc., for any period during which any assessment against his Unit remains unpaid. The right to use the Shared Amenities may also be suspended for a period, not to exceed one hundred twenty (120) days, for the infraction of the Master Association's Rules & Regulations; provided; however, that if the infraction is continuing in nature, the suspension may be enforced until such infraction is cured.

4.9.9. The right of the Declarant and all other Unit Owners to the same non-exclusive right and easement.

4.9.10 Applicable provisions of Chapter 47C of the North Carolina General Statutes.

4.9.11. The terms and provisions of the Condominium Documents.

4.10. Use of Common Elements and Shared Common Elements.

4.10.1. Delegation of Use. Any Owner may delegate, in accordance with the Condominium Documents, his right of enjoyment to the Common Elements and Shared Common Elements to Family Members and Occupants who reside at his Unit and, subject to any Association Rules & Regulations and Master Association Rules and Regulations, to his guests.

4.10.2. Private Streets. Private streets located on the Property shall be the sole responsibility of the Association. In no case shall the City of Raleigh or the State of North

Carolina be responsible for maintaining any private street. Such responsibility shall rest with the Association and/or Owners. Such streets shall be maintained in good condition and no obstruction shall be erected or permitted to remain on such streets. The cost of maintaining such streets is a Common Expense. In no case shall the City of Raleigh be responsible for failing to provide any emergency or regular fire, police or other public service when such failure is due to lack of access to such areas due to inadequate design or construction, blocking of access routes, inadequate maintenance, or any other factor within the control of the Declarant, the Association, Owners or Occupants.

5. DEVELOPMENT RIGHTS.

5.1. Special Declarant Rights Reserved By Declarant. Declarant reserves the following Special Declarant Rights until December 31, 2022 for the Breezewood II Property: (a) to expand the Breezewood II Condominium Regime such that it includes all or any part of the Additional Phases which Additional Phases, if annexed, shall be annexed into and made a part of the Breezewood II Condominium Regime by the execution and recording of an amendment to this Declaration subjecting such Additional Phases to the lien and operation of this Declaration in accordance with Section 6.2 hereof; (b) to withdraw any portion of the aforementioned Additional Phases from the lien and operation of this Declaration after having been subjected to the same, provided no Units established in such phase or phases to be withdrawn have been sold to third parties; (c) to adjust the Allocated Common Element Interests such that they remain in balance with the total number of Units existing at any given time, in the Breezewood II Condominium Regime, in order that all Units have the appropriate Allocated Common Element Interests appurtenant to each such Unit, the aggregate total of which shall always be one hundred percent (100%); (d) to adjust the Allocated Shared Common Element Interests such that they remain in balance with the total number of units existing at any given time, in both the Breezewood I Condominium Regime, (if and when established) and the Breezewood II Condominium Regime combined, in order that all units in the Breezewood I Condominium Regime, (upon such regime being established), and all Units in the Breezewood II Condominium Regime, collectively, have the appropriate Allocated Shared Common Element Interests appurtenant to each such unit or Unit as applicable, the aggregate total of which shall always be one hundred percent (100%); (e) to join with Falls Landing Developers, LLC in the execution of any declaration establishing the Breezewood I Condominium Regime on the Breezewood I Property; (f) to adjust and reallocate the Allocated Shared Common Element Interests so as to permit the allocation and conveyance of the appropriate Allocated Shared Common Element Interests to and with any unit hereafter established on the Breezewood I Property [thereby giving full effect to the sharing of the Shared Common Elements and the Shared Amenities situated on the Jointly Owned Property by both the Breezewood I Condominium Regime and the Breezewood II Condominium Regime]; (g) to add, remove and alter Common Elements and Shared Common Elements to, from and of the Breezewood II Condominium Regime at anytime and from time to time; (h) to construct and maintain any sales office, management office or model in any of the Units or on any of the Common Elements; (i) to alter the size of any Unsold Unit, combine, recombine, reconfigure, subdivide or merge two or more Unsold Units, and subdivide any Unsold Unit; (j) subject to the provisions of NCGS §47C-3-103 and the terms of the Bylaws to appoint and remove any Association Board Member or Master Association Board Member during the Declarant Control Period; (k) to regulate, restrict and designate property as

Common Elements and Shared Common Elements; (l) to amend this Declaration, the Association Articles, the Master Association Articles, the Association Bylaws, the Master Association Bylaws, the Breezewood II Plat(s) and Plan(s) and any document establishing the Breezewood II Condominium Regime to correct any error in the same or to otherwise bring the Breezewood II Condominium Regime into compliance with the Act; (m) to execute any corrective amendment to bring the Breezewood I Condominium Regime, if and when established, into compliance with the Act; [NOTE: It is expressly intended that the provisions of paragraphs (l) and (m) hereof shall continue in perpetuity surviving the Declarant Control Period and the December 31, 2022 Development Rights date and may be exercised, at any time and from time to time, by the Declarant or any successor declarant]; and (n) such other rights as are described in NCGS §47C-1-103(11). Declarant, in its sole discretion, and from time to time during the Declarant Control Period, may exercise any or all of the Development Rights. During the Declarant Control Period, no amendment to or modification of the Development Rights may be made without the Declarant's prior, written consent, which it may arbitrarily withhold.

5.2 Exercise of Declarant Rights.

5.2.1. Upon the exercise of any of the Development Rights resulting in the annexation of all or any part of the Additional Phases, or altering the Common Elements, Limited Common Elements, and/or Shared Common Elements, the Declarant shall prepare and file an Amendment to this Declaration in compliance with the Condominium Documents and the Act to annex such Additional Phases into the Breezewood II Condominium Regime. To the extent any such amendment shall purport to alter the Allocated Shared Common Element Interests, any such amendment shall also be executed by the declarant of the Breezewood I Condominium Regime.

5.2.2 Notwithstanding any term or provision of this Declaration, in the event the Breezewood II Condominium Regime shall be established before the Breezewood I Condominium Regime, one hundred percent (100%) of the Allocated Shared Common Element Interests in the Shared Common Elements shall be allocated and appurtenant to the Breezewood II Condominium Regime Units until, (and only until), such time as the Breezewood I Condominium Regime is established. At such time as the Breezewood I Condominium Regime is established on the Breezewood I Property and provided the Breezewood I Condominium Regime is established within two (2) years of the acquisition of the Jointly Owned Property by the Declarant and Falls Landing Developers, LLC, the Allocated Shared Common Element Interests, then appurtenant to each Unit in the Breezewood II Condominium Regime, shall immediately be adjusted and reallocated amongst the owners of units in the Breezewood I Condominium Regime and the Owners of Units in the Breezewood II Condominium Regime, each such owner of a unit in the Breezewood I Condominium Regime and each such Owner of a Unit in the Breezewood II Condominium Regime to receive an equal Allocated Shared Common Element Interest in accordance with the formula set forth in Section 4.7 of this Declaration.

In the event the Breezewood I Condominium Regime is not established on the Breezewood I Property within two (2) years of the acquisition of the Jointly Owned Property by the Declarant and Falls Landing Developers, LLC, then in such event, Falls Landing Developers, LLC shall have no further claims to or rights in the Jointly Owned Property, inasmuch as the interest of Falls Landing Developers, LLC in the Jointly Owned Property is subject to a shifting

executory interest more fully described in that certain North Carolina Special Warranty Deed from Breezewood Holdings, LLC to Falls Landing Developers, LLC recorded in Book 013267, Page 02554 in the Office of the Wake County Register of Deeds.

Such Allocated Shared Common Element Interests, whether appurtenant to units in the Breezewood I Condominium Regime or Units in the Breezewood II Condominium Regime, shall continue to adjust and be reallocated as and when Additional Phases are established within the Breezewood II Condominium Regime. At such time as all two hundred twelve (212) Units have been established in the Breezewood II Condominium Regime or December 31, 2022 whichever shall first occur, the Declarant shall have no further right to establish any additional Units on the Breezewood II Property thereby fixing the Allocated Shared Common Element Interests appurtenant to all then existing units in the in the Breezewood I Condominium Regime and all then existing Units in the Breezewood II Condominium Regime.

The Declarant and Falls Landing Developers, LLC shall execute and record such amendments to this Declaration and to any declaration recorded hereafter on the Breezewood I Property as may be necessary to provide record notice of such adjustments and reallocations of the Allocated Shared Common Element Interests in accordance with section 5.2.1 above.

5.2.3. Any or all of the Units shall be constructed and added to the Breezewood II Condominium Regime, on or before December 31, 2022.

5.2.4. All additional Units established on the Breezewood II Property will be restricted exclusively for the uses permitted in this Declaration, and all restrictions, terms, covenants and conditions of the Condominium Documents shall apply to any and all additional Units that may be created within the Breezewood II Property. Any Improvements that may be erected upon the Additional Phases, or any portion thereof, will be generally similar in quality to the other, already constructed Improvements in the Breezewood II Condominium Regime and shall be compatible in terms of architectural style, quality of construction and building materials.

5.3. Assignment. Declarant reserves the right to assign the Development Rights to any Person which acquires title to all or any portion of the Breezewood II Property. The assignment shall not be effective unless it is in writing (specifically describing the Development Rights being assigned), signed by the Declarant and is accepted in writing, by the assignee and recorded with the Wake County Registry.

5.4 Declaration. The Developer may, from time to time, delegate any or all of its Development Rights to such agents as it may nominate and on such terms as it chooses.

6. ANNEXATION OF ADDITIONAL PHASES

6.1. Annexation by Members. Except as provided in Section 6.2 hereafter, the Additional Phases may be added and annexed into the Breezewood II Condominium Regime only if sixty-seven percent (67%) of the Allocated Common Element Interests approve the annexation.

6.2. Annexation by Declarant. The Declarant may, at any time during the Declarant Control Period and from time to time, annex all or any portion of the Additional Phases into the Breezewood II Condominium Regime and add additional Units to the Breezewood II Condominium Regime without the consent of the Members of the Association or the Master Association. Declarant shall not be required to annex any particular portion(s) of the Additional Phases or annex the same in any particular order. The annexation will be accomplished by the recording of the appropriate plat(s) and plan(s) and amendments to this Declaration as required by the Act, duly executed by Declarant with the consent and approval of Falls Landing Developers, LLC if required by Article V, Section 5.2.1 hereof, describing the lands annexed and Units created thereby. Subsequent to recordation of the amendment to the Declaration and applicable Breezewood II Plat(s) and Plan(s), the Declarant shall deliver to the Association a copy of the recorded amendment to the Declaration and new plat(s) and plan(s). Notwithstanding the preceding to the contrary, the Declarant's right to annex Additional Phases shall be subject to the following restrictions: (a) the Improvements to be included in the annexed property (the "Annexed Improvements") must be reasonably consistent in design and function to the existing Improvements within the Breezewood II Condominium Regime; (b) the Annexed Improvements must be substantially completed before the annexation is effected; (c) any liens relating to the Annexed Improvements must not adversely affect the rights of existing Owners or the priority of the Mortgagees; and (d) all property taxes and assessments on the Additional Phases being annexed must be paid or otherwise satisfactorily provided for prior to the annexation.

6.3. Governmental Approval. Notwithstanding the provisions of Section 6.1 and 6.2 to the contrary, any addition or annexation of the Additional Phases must, to the extent legally required, be approved by the Zoning Entity.

7. MEMBERSHIP AND VOTING RIGHTS.

7.1. Qualification. Ownership of a Unit shall be the sole qualification for membership in the Association and the Master Association. Each Unit shall have a vote in the Association equal to its Allocated Common Element Interest and a vote in the Master Association equal to its Allocated Shared Common Element Interest.

7.2. Suspension. The right of any member to vote may be suspended by the Association Board for just cause pursuant to the Association Rules & Regulations and by the Master Association Board for just cause pursuant to the Master Association Rules & Regulations.

7.3. Entitlement. Members shall be entitled to exercise the vote for each Unit owned. When more than one Person holds an interest in any one Unit, all such Persons shall be Members. The vote of that Unit shall be exercised as provided in the Association Bylaws or the Master Association Bylaws as applicable. Fractional voting of a Unit's vote however is and shall be expressly prohibited. The Association's Board and the Master Association's Board may make reasonable rules relating to the proof of ownership of a Unit. Membership in either the Association or the Master Association shall be appurtenant to and may not be separated from ownership of any Unit.

8. COVENANT FOR ASSESSMENTS.

8.1. Lien of Assessments.

8.1.1. Each Owner of a Unit 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 and the Master Association, as applicable, all of the assessments as provided for in this Declaration. In addition to the Annual Assessments and the Special Assessments, the Association shall have the authority, through the Association's Board and the Master Association through the Master Association Board, as applicable, to establish, fix and levy an individual assessment on any Unit to secure the liability of that Owner to the Association or the Master Association, as applicable, for such assessments.

8.1.2. The Association Assessment and the Master Association Assessment shall be set on a calendar year basis (the "Annual Assessments Period") and may be collected on a monthly, quarterly, semi-annual or annual basis as determined by the Association's Board and the Master Association Board as the case may be. Such assessments shall be charged to each Owner of a Unit. Special Assessments shall also be charged to each Owner of a Unit. Both the Association Assessment and the Master Association Assessment, together with interest thereon and the costs of collection (including reasonable attorney fees), shall be a lien on the applicable Unit from the due date for the assessment, continuing until paid in full, as well as the personal obligation of the person who was the Owner of the Unit at the time when such assessment became due. While any unpaid amounts shall remain a lien on the applicable Unit, the personal obligation shall not pass to that Owner's successors in title unless expressly assumed by the successor.

8.1.3. No Owner shall be exempted from liability for the payment of the Association Assessment or the Master Association Assessment by waiving the use or enjoyment of any or all of the Common Elements or Shared Common Elements or by abandoning its Unit. No Owner shall be entitled to a diminution or abatement in either the Association Assessment or the Master Association Assessment for any inconvenience or discomfort arising from: (i) the failure or interruption of any utility or other services; (ii) the making of repairs or improvements to the Common Elements or the Shared Common Elements; or (iii) any action taken by either the Association's Board or the Master Association's Board or the officers of the Association or the officers of the Master Association to comply with the Law.

8.1.4. All Units dedicated to and accepted by a local public authority, shall be exempt from the Association Assessment and the Master Association Assessment.

8.2. Purpose of the Association Assessment. The Association Assessment shall be used exclusively for funding all Common Expenses. "Common Expenses" shall include but not be limited to, taxes, assessments, and governmental liens assessed against the Common Elements, liability insurance, utility charges and expenses for services provided to the Common Elements and the Shared Common Elements, including lease payments on all leased street lights on Private Streets, payments owed to the City of Raleigh pursuant to the Stormwater Replacement Protection Easement and Access Maintenance Agreement and Lump Sum Replacement Contribution Contract recorded in Book 013267 Page 02218 in the Office of the

Register of Deeds of Wake County, North Carolina, Association operational costs, management fees, master association dues, improvement and maintenance costs (including those for the Common Elements, the Private Streets, the landscaped areas of rights-of-way, storm drains, detention basins and any easements granted to the Association), costs, expenses, damages, repairs and liabilities reasonably incurred by the Association in fulfilling the purposes of this Declaration other expenses agreed by the Members to be "Common Expenses", and reserves for any of the foregoing purposes.

8.3 Purpose of Master the Association Assessment. The Master Association Assessment shall be used exclusively for funding all Shared Common Expenses. "Shared Common Expenses" shall include but not be limited to, taxes, assessments, and governmental liens assessed against the Shared Common Elements, liability insurance, Master Association operational costs, management fees, Master Association dues, improvement and maintenance costs (including those for the Shared Common Elements, the Private Streets, the landscaped areas of rights-of-way, and any easements granted to the Master Association), costs, expenses, damages, repairs and liabilities reasonably incurred by the Master Association in fulfilling the purposes of this Declaration and any declaration that may be recorded against the Breezewood I Property other expenses agreed by the Members of the Breezewood II Condominium Regime and the members of the Breezewood I Condominium Regime to be "Shared Common Expenses", and reserves for any of the foregoing purposes.

8.4. Notice/Due Dates. Written notice of a Special Assessment or a change in the Annual Assessments, whether for the Association or the Master Association, shall be sent to every Owner subject thereto at least fifteen (15) days in advance of its due date. The due date for an assessment whether for Association Assessment or a Master Association Assessment shall be established by the applicable board of directors, in the case of Annual Assessments, or by the majority vote of the Owners, in the case of Special Assessment. The Association and the Master Association shall, upon demand at any time, furnish a certificate in writing signed by an officer of the Association or the Master Association, as applicable, setting forth whether the assessments on a specified Unit have been paid. A reasonable charge may be assessed by the issuing association for the issuance of these certificates. These certificates shall be conclusive evidence of payment of any assessment as to third parties acting in reliance on the statement.

8.5. Annual Assessments.

8.5.1. The Annual Assessments shall commence as of the date declared by the Association's Board and the Master Association's Board, as applicable. All Units created as of that date shall begin paying Annual Assessments in proportion to their Common Expense Liability and Shared Common Expense Liability, as the case may be. As to Units created thereafter, Annual Assessments shall commence on the first day of the month following the date it becomes a Unit; i.e., the date the applicable Amendment to the Declaration and the applicable Breezewood II Plat(s) and Plan(s) are recorded. The Annual Assessments for the first calendar year for a Unit shall be adjusted according to the number of months remaining in that calendar year. Except as may be specifically provided to the contrary in this Declaration, Annual Assessments, in the amount determined under Sections 8.5.2 and 8.5.3 hereafter, shall be charged to each Owner of a Unit. Until the Association Board and the Master Association Board

elect to have the Annual Assessments commence, the Declarant shall pay all Common Expenses and that portion of the Shared Common Expenses as are attributable to the Breezewood II Condominium Regime. There shall be no requirement however that the Association Assessments and the Master Association Assessments commence at the same time.

8.5.2. On or before January 1st of each year, the Association Board shall adopt a proposed budget. This proposed budget shall include all anticipated revenues (including revenues from Association Assessments to be charged in the next Annual Assessment Period), the anticipated Common Expenses for the Association for that same period, and any surplus or deficit in the Association Assessments from the prior years. Within thirty (30) days after adoption of any proposed budgets, the Association Board shall send each Owner a copy of their proposed budgets and notice of a scheduled meeting of Owners to consider their ratification. The date of those meetings shall be not less than fourteen (14) nor more than thirty (30) days following the date of the notice of the meetings. The proposed budgets shall be deemed ratified unless a Majority in Interest of all of the Owners reject the proposed budget. There shall be no requirement that a quorum be present at the meetings. The approved Association budgets shall be the basis for calculating the Association Assessments to be charged for each Unit for the upcoming Annual Assessment Period. Upon adoption of the approved budget, the Association Board shall calculate the amount of the Association Assessment for each Owner of a Unit and send a notice of that amount to each Owner of a Unit as required under this Declaration. The failure or delay of the Association Board to prepare or adopt a budget or to determine the Common Expense Liability for any assessment period shall not be deemed a waiver, modification or release of the Owners' obligation to pay Association Assessments. In such event, the Association Assessments that were computed on the basis of the Common Expense Liability for the last assessment period shall continue to be the Annual Assessments payable by the Owners until a new budget is approved by the Association.

8.5.3. On or before January 1st of each year, the Master Association Board shall adopt a proposed budget. This proposed budget shall include all anticipated revenues (including revenues from Master Association Assessments to be charged in the next Annual Assessment Period), the anticipated Shared Common Expenses for the Master Association for that same period, and any surplus or deficit in the Master Association Assessments from the prior years. Within thirty (30) days after adoption of any proposed budgets, the Master Association Board shall send each Owner a copy of their proposed budgets and notice of a scheduled meeting of Owners in the Breezewood II Condominium Regime and owners in the Breezewood I Condominium Regime to consider their ratification. The date of those meetings shall be not less than fourteen (14) nor more than thirty (30) days following the date of the notice of the meetings. The proposed budgets shall be deemed ratified unless a Majority in Interest of all of the Owners reject the proposed budget. There shall be no requirement that a quorum be present at the meetings. The approved Master Association budgets shall be the basis for calculating the Master Association portion of the Annual Assessment to be charged for each unit in the Breezewood I Condominium Regime and for each Unit in the Breezewood II Condominium Regime for the upcoming Annual Assessment Period. Upon adoption of the approved budget, the Master Association Board shall calculate the amount of the Master Association Assessment for each owner of a unit in the Breezewood I Condominium Regime and each Owner of a Unit in the Breezewood II Condominium Regime and send a notice of that amount to each owner or Owner

as the case may be. The failure or delay of the Master Association Board to prepare or adopt a budget or to determine the Shared Common Expense Liability for any assessment period shall not be deemed a waiver, modification or release of such Owner's or owner's obligation to pay Master Association Assessments. In such event, that portion of the Annual Assessments that were computed on the basis of the Shared Common Expense Liability for the last assessment period shall continue to be the Annual Assessment payable by the Owners until a new budget is approved by the Master Association Board.

8.5.4. Declarant may, but shall not be obligated to, loan the Association and/or the Master Association money to the extent that Annual Assessments paid by the Owners are inadequate. Any such advance shall be to the Association and/or the Master Association, as applicable, and on terms generally available to Declarant from its lending institution. Declarant, if also an Owner, shall also be responsible for the payment of Annual Assessments as otherwise required by this Article.

8.6. Special Assessments. In addition to the Annual Assessments, the Association, acting without the Master Association, or the Master Association, acting without the Association or the Association and the Master Association, acting together, as the case may be, may, from time to time, levy a special assessment (the "Special Assessment") for the purpose of defraying in whole or in part the cost of any unexpected expense of either the Association or the Master Association or both the Association and the Master Association as the case may be. A Special Assessment shall require the assent of the Owner(s) holding not less than sixty-seven percent (67%) of the Allocated Common Element Interests or the Allocated Shared Common Element Interests, as applicable. An Owner's pro rata share of each Special Assessment shall equal its Allocated Common Element Interest percentage if levied by the Association; its Allocated Shared Common Element Interest percentage if levied by the Master Association and the combined total of the Allocated Common Element Interest percentage and the Allocated Shared Common Element Interest percentage if levied by both the Association and the Master Association. A Special Assessment shall be collected from those Owners of Units which exist as of the date the Special Assessment and approved by the Members.

8.7. Initial Assessment. At the initial sale of a Unit from the Declarant to a third-party purchaser, in addition to the Annual Assessments otherwise due for the remainder of the then current payment period, an amount equal to two (2) months' of the then current Association Annual Assessments and two (2) months of the Master Association Assessment (the "Initial Assessment") shall be collected from the purchaser and paid to the Association and the Master Association as their interests appear. The Initial Assessment shall not constitute advance payments of Annual Assessments, but shall nevertheless be used by the Association and the Master Association as their interests appear in the manner specified for Annual Assessments.

8.8. Fines. The Association's Board and the Master Association's Board as applicable may impose fines against any Unit for a failure to comply with this Declaration or any Association Rules & Regulations or Master Association Rules & Regulations either of said associations may duly adopt. These fines shall be treated as a Special Assessment otherwise due to the Association or the Master Association, as the case may be, from that Owner. Fines shall be paid not later than thirty (30) days after notice of the assessment is given to the offending

Owner. These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association and the Master Association may be otherwise legally entitled. Any fine paid by the offending Owner shall nevertheless be deducted from or offset against any damages that the Association and the Master Association may otherwise be entitled to recover by law from that Owner.

8.9 Uniform Rate of Association Assessment. The Common Expense Liability allocated to each Unit shall equal a fraction, the numerator of which is one (1) and the denominator of which is the total number of Units included within the Breezewood II Condominium Regime at that time. Association Assessments and Special Assessments must be fixed at a uniform rate in accordance with their relative Common Expense Liability, for all Units, as the case may be. Provided, however, that the Association shall also have the authority, through the Association Board to establish, fix and levy a Special Assessment on any Unit to secure the liability of that Owner to the Association arising from the Owner's breach of any of the provisions of this Declaration.

8.10 Uniform Rate of Master Association Assessment. The Shared Common Expense Liability allocated to each Unit shall equal a fraction, the numerator of which is one (1) and the denominator of which is the total number of Units included within the Breezewood II Condominium Regime at that that time. The Master Association Assessment and any Special Assessment must be fixed at a uniform rate in accordance with their relative Shared Common Expense Liability, as applicable, for all Units, as the case may be. Provided, however, that the Master Association as the case may be shall also have the authority, through the Master Association Board, to establish, fix and levy a Special Assessment on any Unit to secure the liability of that Owner to the Master Association, arising from the Owner's breach of any of the provisions of this Declaration.

8.11. Non-Payment of Assessment Remedies of the Association and Master Association. Any Association Assessment or Master Association Assessment, which is not paid when due, shall be delinquent. The Association or the Master Association, as applicable shall have the option to declare the entire outstanding balance of any Association Assessment or Master Association Assessment immediately due and payable if any installment thereof becomes delinquent. If either the Association Assessment or the Master Association Assessment is not paid within thirty (30) days after the due date, then such assessments shall incur a late charge set by the Association Board or the Master Association Board, as applicable and shall bear interest from the date of delinquency at the greater of the rate set by the Association's Board or the Master Association's Board, as applicable, or twelve percent (12%) per annum. The Association or the Master Association, as the case may be, may bring an action at law against the responsible Owner and/or foreclose the lien against the applicable Unit. Interest, costs, and reasonable attorney fees of any such action shall be added to the amount of the delinquent assessment. Each Owner, by the acceptance of a deed to a Unit, expressly vests in the Association and the Master Association, as applicable, their agents or assigns, the right and power to bring all actions against the Owner, personally, for the collection of all debts due by it to the Association and/or the Master Association, as applicable, and to enforce the lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association or the Master Association in a like manner as a mortgage or a deed of trust lien on

real property. Each Owner also expressly grants to the Association or the Master Association, as their interest may appear, a power of sale in connection with foreclosure of a lien for assessments, whether Annual Assessments or Special Assessments and whether an Association Assessment or a Master Association Assessment. The Lien provided for in this Article shall be in favor of the Association or the Master Association, as applicable, acting on behalf of the Owners, which shall have the power and the right to bid in at foreclosure and to acquire and hold, lease, mortgage and convey the foreclosed Unit. No Owner may waive or otherwise escape liability for assessments by non-use of the Common Elements or Shared Common Elements or abandonment of his Unit.

8.12. Subordination of the Lien. The lien of the Association Assessment and the Master Association Assessment inclusive of any Special Assessment shall be subordinated to the lien of any Mortgage on a Unit. Provided the Association and the Master Association are given prior written notice of such, the sale or transfer of a Unit pursuant to a Foreclosure shall extinguish the lien of the delinquent Association Assessment and Master Association Assessment for that Unit. Otherwise, the sale or transfer of a Unit shall not release or otherwise affect the lien of delinquent assessments whether owed to the Association or the Master Association; provided, that no Owner shall be liable for the payment of any part of any assessments assessed either by the Association or the Master Association against its Unit subsequent to a sale, transfer, or other conveyance by it of that Unit. In no event, however, shall any sale or transfer, whether pursuant to a Foreclosure or not, relieve the prior Owner from personal liability for the delinquent Association Assessment or Master Association Assessment or the Unit from liability for any such assessments subsequently becoming due or from the lien therefore.

8.13. Surplus Funds. Surplus Funds shall be either distributed to the Owners, pro rata, in accordance with their respective Allocated Common Element Interests and Shared Common Element Interests or be used as a credit against each Owner's future Association Assessment, as determined by the Association Board and Master Association Assessment as determined by the Master Association Board respectively.

9. PARTY WALL.

9.1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of a Unit and placed on the dividing line between the Units and all reconstruction or extensions of such walls shall constitute party walls. To the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls, lateral support, in-below ground construction and of liability for property damage due to negligence or willful acts or omissions shall apply.

9.2. 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.

9.3. 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. If other Owners make

use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use; subject, however, to the right of any Owners to call for a larger contribution from the others under any rule of law regarding liability for negligence or willful acts or omissions.

9.4. Construction or Reconstruction. The Owner may construct or reconstruct a party wall subject to and within the limitations of architectural control and other limitations of this Declaration and the Act with the right to go upon the adjoining Unit to the extent reasonably necessary to perform the construction or reconstruction. The construction or reconstruction shall be done expeditiously. Upon completion of the construction or reconstruction, the Owner shall restore, as is reasonably practicable, the adjoining Unit to as near the same condition which existed on or before the commencement of the construction or reconstruction.

9.5. Weatherproofing. Notwithstanding any other provisions of this Article, an Owner who, by his negligence or willful act, caused the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against those elements.

9.6. The 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 Unit and shall pass to the Owners' successors in title.

9.7. Contribution Certification by Adjoining Unit Owner. If any Owner desires to sell his Unit, he may, in order to assure a prospective purchaser that no adjoining Owner(s) has a right of contribution as provided in this Article, request that the adjoining Owner(s) provide a certification that no right of contribution exists. It shall be the duty of each adjoining Owner to make such certification immediately upon request and without charge; provided, however, that where the adjoining Owner claims a right of contribution, the certification shall contain a recital of the amount claimed. In the event an adjoining Owner refuses or neglects to provide such certification, it shall be deemed a waiver of the right of the party failing to provide such certification to proceed against such Owner or his successors for any contributions which may have accrued to that date.

9.8. Removal/Relocation of Party Wall. Anything contained in this Declaration to the contrary notwithstanding, the Declarant shall have the right to relocate, remove or alter any intervening partitions or party walls between adjoining Units or create apertures therein, even if the partition or party walls in whole or in part is a Common Element, if those acts do not impair the structural integrity or mechanical systems or lesson the support of any portion of the Breezewood II Condominium Regime. Any purchaser of a Unit from the Declarant by acceptance of a Deed shall be deemed pursuant to this Declaration to have given prior consent and approval to such a relocation, removal or alteration, and the Declarant is hereby declared to be the authorized designee of the Association to file an amendment to this Declaration and the Breezewood II Plat(s) and Plan(s) with the Register of Deeds of Wake County. The mere removal or relocation of a partition or party wall between two Units owned by a singe Owner shall not constitute an alteration of a Unit boundary. The relocation of a party wall between two adjoining Units shall not be deemed to be an alteration of the boundary unless and until amended Breezewood II Plat(s) and Plan(s) have been filed evidencing the agreement of such relocation and to the extent necessary this Declaration has been amended and a deed executed delivered and

recorded by the appropriate party. Any alteration in the boundaries of a Unit accomplished pursuant to the provisions of this paragraph shall result in a change in the Allocated Common Element Interests and vote of the Unit as calculated pursuant to this Declaration.

10. INSURANCE/CONDEMNATION.

10.1. Association Coverage.

10.1.1 The Association Board and the Master Association Board as the case may be shall obtain and maintain, to the extent available, casualty insurance (ISO special for or its equivalent) for the Buildings, Units, Common Elements, Shared Common Elements and the Limited Common Elements, covering the interest of the Association, the Association Board, the Master Association, the Master Association Board, and all Owners and their mortgagees and trustees of those mortgagees, as their interests may appear. Such coverage shall: (a) be in an amount equal to one hundred percent (100%) of replacement value, (b) have a commercially reasonable deductible not in excess of $10,000.00; and (c) afford protection against loss or damage by fire or other hazards covered by the standard extended coverage endorsement and such other risks as from time to time customarily shall be covered with respect to buildings in similar construction, location and use, including, without limitation, vandalism and malicious mischief. This coverage shall not, however, include any improvements or betterments installed by an Owner or any of the personal property belonging to an Owner whether or not located inside a Unit.

10.1.2. To the extent obtainable, the Association Board and the Master Association Board shall also obtain and maintain (in amounts to be determined by it): (1) fidelity insurance covering all members of the Association Board, and the Master Association Board, officers, agents, managers or employees of the Association and the Master Association who handle funds of the Association and the Master Association; (2) workmen's compensation insurance; (3) commercial general liability insurance covering all damage or injury caused by the Association or the Master Association, any of its agents, or Owners (as a group) and all liabilities associated with the ownership of the Common Elements and Shared Common Elements; such insurance to be purchased at or above the limits required by City of Raleigh Code Section 10-9027(b), which presently requires one million dollars ($1,000,000.00) in coverage and (4) such other insurance coverages as it deems desirable and necessary. The commercial general liability insurance shall not, however, cover the liability of an Owner arising from an occurrence within its own Unit.

10.1.3. The proceeds of all policies of physical damage insurance shall be payable to the Association or the Master Association as their interest may appear to be applied for the purpose of repairing, restoring, or rebuilding the Units as well as the Common Elements and Shared Common Elements unless otherwise determined by the Owners, as provided below, and the Association Board or the Master Association Board, as applicable, shall arrange for such repair or work. If the insurance proceeds are insufficient to cover the cost of such work, the balance of the cost will be assessed among all Owners in proportion to their respective interests in the Common Elements if the damage is to the Common Elements. If the damage is to the Shared Common Elements the same shall be assessed both to the Owners of Units in the Breezewood II Condominium Regime and to the owners of units in the Breezewood I Condominium Regime given both regimes share the Shared Common Elements.

10.1.4. All policies of physical damage insurance shall contain waivers of subrogation and of any reduction of pro rata liability of the insurer as a result of any insurance carried by Owners or of any invalidity arising from any acts of the insured or any Owners and shall provide that such policies may not be canceled or substantially modified without at least thirty (30) days' prior written notice to the named insured, including all first mortgagees of Units.

10.2. Owner's Coverage. Each Owner, at its own expense, shall carry full replacement cost, all risk property damage and hazard/casualty insurance for all property and improvements located within its Unit not covered by the insurance referenced in Section 10.1.1. and commercial general liability insurance in an amount reasonably determined, from time to time, by the Association's Board or the Master Association's Board as the case may be. The insurance shall be with a company, in an amount, and in a form which is acceptable to the Association's Board and the Master Association's Board, as applicable, and shall include a loss payable clause listing the Association and the Master Association as additional insureds. Each Owner shall satisfy the Association's Board and the Master Association's Board that at all times it carries the required insurance.

10.3. Repair/Reconstruction of Building.

10.3.1. In the event of damage to or destruction of a Building as a result of fire or other casualty, the Association Board shall arrange for the prompt repair, replacement, and restoration of the Building and any damaged Units (including the same or comparable fixtures and equipment installed by the Declarant, but not including any wall, ceiling, floor, or other decorations or coverings, or any furniture, furnishings, fixtures or equipment installed by Owners in the Units). The Association Board or the insurance trustee, as the case may be, shall disburse the proceeds of all insurance [policies to the contractors engaged in such repair and restoration in appropriate progress payments. The cost of repair, replacement, and restoration in excess of the insurance proceeds, if any, shall constitute a Common Expense and the Association Board may assess all the Owners for such deficit as a Special Assessment.

10.3.2 In the event of damage to or destruction of any of the Shared Common Elements, as a result of fire or other casualty, the Master Association Board shall arrange for the prompt repair, replacement, and restoration of the same. The Master Association Board or the insurance trustee, as the case may be, shall disburse the proceeds of all insurance [policies to the contractors engaged in such repair and restoration in appropriate progress payments. The cost of repair, replacement, and restoration in excess of the insurance proceeds, if any, shall constitute a Shared Common Expense and the Master Association Board may assess all the Owners of Units constructed and situated on the Property, inclusive of those owners of units in the Breezewood I Condominium Regime for such deficit as a Special Assessment

10.3.3. Notwithstanding the preceding to the contrary, such repair or replacement shall not be undertaken if: (i) the Breezewood II Condominium Regime is terminated as provided under the Condominium Documents; (ii) repair/replacement would be prohibited by any Law; or (iii) if eighty percent (80%) or more of the Owners (including all of the Owners of the damaged Units and/or Limited Common Elements) vote not to repair/replace the damage. In that event the

entire Condominium is not repaired/replaced, the insurance proceeds shall be used/distributed in accordance with the requirements of the Act.

10.3.4. Each Owner shall nevertheless be liable for the expense of any maintenance, repair, or replacement rendered necessary by its act, neglect, or carelessness, to the extent that such expense is not met by the proceeds of insurance carried by the Association Board or the Master Association Board, as applicable. Such liability shall include any increase in fire insurance carried by the Association Board or the Master Association Board. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy, or abandonment of a Unit or its appurtenances. This subsection shall not, however, be construed so as to modify any waiver by insurance companies of rights of subrogation.

10.4. Ownership/Proceeds. All contracts of insurance purchased by the Association and the Master Association shall be for the benefit of the Association, or the Master Association, as applicable, the Owners, and their respective mortgagees and such mortgagees trustees, if any, as their interests may appear, and shall provide that all proceeds thereof shall be payable to the Association or the Master Association as applicable, as insurance trustee. The sole duty of the Association or the Master Association as insurance trustee shall be to receive any proceeds as are paid and to hold them in trust for the purposes stated in this Declaration. The proceeds received by the insurance trustee shall be distributed to or for the benefit of the appropriate beneficiary(ies) as required by the Condominium Documents.

10.5. Premiums. premiums for contracts of insurance purchased by the Association or the Master Association shall be paid by the Association or the Master Association as applicable, and shall be included in Common Expenses and Shared Common Expenses as applicable.

10.6. Prohibited Acts. No Owner shall do or keep anything on the Property which shall cause an increase in the premiums for or the cancellation of any insurance maintained by the Association or the Master Association.

10.7. Condemnation. In the event of a taking in condemnation or by eminent domain of part or all of the Common Elements, the award made for such taking shall be payable to the Association. Unless eighty percent (80%) or more of the Allocated Common Element Interests of all Units (with the written approval of the applicable Mortgagees) object to the repair and restoration of such Common Elements, the Association Board shall arrange for the repair and restoration of such Common Elements and shall disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments. In the event that a valid objection is made to repair/restoration of such Common Elements, or if the award exceeds the costs of such repair or restoration, the Association Board shall disburse the net proceeds among all Owners in proportion to their respective Allocated Common Element Interests. As used in this Section, the words "promptly approve" shall mean no more than sixty (60) days from the date of such taking.

10.8. Condemnation. In the event of a taking in condemnation or by eminent domain of part or all of the Shared Common Elements, the award made for such taking shall be payable to the Master Association. Unless eighty percent (80%) or more of the Allocated Shared Common

Element Interests of all units in the Breezewood I Condominium Regime and all Units in the Breezewood II Condominium Regime (with the written approval of the applicable Mortgagees) object to the repair and restoration of such Shared Common Elements, the Master Association Board shall arrange for the repair and restoration of such Shared Common Elements and shall disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments. In the event that a valid objection is made to repair/restoration of such Shared Common Elements, or if the award exceeds the costs of such repair or restoration, the Master Association Board shall disburse the net proceeds among all Owners in both the Breezewood I Condominium Regime and the Breezewood II Condominium Regime in proportion to their respective Allocated Shared Common Element Interests. As used in this Section, the words "promptly approve" shall mean no more than sixty (60) days from the date of such taking.

11. EASEMENTS.

11.1 Easements. A non-exclusive, perpetual easement is granted to the Association, the Master Association, the Affiliated Association and their designees to enter in or to cross over the Common Elements, Shared Common Elements and the Units to the extent reasonably necessary to perform their obligations under this Declaration or the Act. Every Unit shall be subject to an easement for entry by the Association and the Master Association and its designees for the purpose of correcting, repairing, or alleviating any emergency condition which arises upon any Unit and that endangers any improvement or portion of the Common Elements or the Shared Common Elements. In addition to those easements described in the following subsections, the Declarant (during the Declarant Control Period) and the Association or the Master Association thereafter shall have the right to subject the Breezewood II Property to easements which either of said associations reasonably deem beneficial to the development and/or operation of the Breezewood II Condominium and the Breezewood II Condominium Regime and shall include, without limitation, the previously recorded easements benefiting either the Breezewood I Property or the Breezewood II Property as set out in **Exhibit "K"** attached hereto and incorporated herein by reference. The cost of maintaining these easements shall be a Common Expense of the Association and the Affiliated Association or a Shared Common Expense of the Master Association as the case may be.

11.2. Utility Easements. The Declarant reserves unto itself, the Association, the Affiliated Association and the Master Association, as their interests may appear, a perpetual, nonexclusive alienable, and releasable easement and right, on, over and under the Breezewood I Property and the Breezewood II Property to erect, maintain, and use poles, wires, cables, conduits, lines, drainage ways, sewers, water mains, and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water drainage, cablevision, or other public conveniences or utilities on, in or over those portions of such property as may be reasonably required to serve the Units of the Breezewood II Condominium Regime and to units that may be established hereafter in the Breezewood I Condominium Regime. Notwithstanding the foregoing, no sewers, electrical lines, water lines, or other utility equipment or facilities may be installed or relocated in the Common Elements or Shared Common Elements or on any part of

the Additional Phases or the Breezewood I Property, except as approved by the Declarant or, after the end of the Declarant Control Period, the Association, the Affiliated Association or the Master Association, as applicable. Should any utility furnishing a service covered by this general easement request a specific easement by separate recordable document, Declarant or, after the end of the Declarant Control Period, the Association, the Affiliated Association or the Master Association, as applicable, will have the right and authority to grant such easement. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation to maintain reasonable standards of health, safety, and appearance. Such rights may be exercised by any licensee of the Declarant. This reservation shall not create any obligation on the part of the Declarant to provide or maintain any such utility or service. Whenever possible, utilities within the Breezewood I Property or the Breezewood II Property, whether located within the Common Elements or the Shared Common Elements, shall be installed and maintained underground. The easements provided for in this Article shall in no way affect other recorded easements appurtenant to the Breezewood II Property, the Additional Phases or the Breezewood I Property.

11.3. Temporary Construction Access and Disturbance Easement. A non-exclusive easement over through and to the Common Elements, the Limited Common Elements and the Shared Common Elements is reserved and established in favor of Declarant, the Association, the Affiliated Association and the Master Association, as applicable, for purposes of ingress, egress, regress, conduct of construction activity, storage of construction materials and the necessary disturbance of land for construction of any Unit. This easement shall be used only as and when necessary to facilitate the construction of Improvements at any time of a Unit by Declarant or Association, the Affiliated Association or the Master Association as well as the extension of driveways, sidewalks, underground drainage and utility conduit and hookups to any dwelling structure in the Breezewood II Condominium Regime or the Breezewood I Condominium Regime.

11.4. Repair, Maintenance and Reconstruction Easement. The Association, the Affiliated Association and the Master Association shall have a perpetual, non-exclusive access easement over the Common Elements, the Shared Common Elements and the Units to the extent reasonably necessary to perform repair, maintenance or reconstruction obligations under this Declaration or the Act. The repair, maintenance or reconstruction shall be done expeditiously and, upon completion of the work, the Association, the Affiliated Association or the Master Association, as applicable, shall restore, to the extent reasonably practical, the Unit and adjoining Units to as near the same condition as that which existed prior to the commencement of the work. Should either the Association, the Affiliated Association or the Master Association fail to restore the Units as required, the Owner may, at the Association's, the Affiliated Association's or the Master Association's expense, complete the required restoration.

11.5. Easement for Minor Encroachments. All Units and the Common Elements shall be subject to a perpetual, non-exclusive easement for the encroachment of the initial Improvements constructed to the extent that such initial Improvements actually encroach. These authorized encroachments shall include, but not be limited to, such items as overhanging eaves, roofs, gutters, downspouts, exterior storage rooms, bay windows, stoops, decks, patios, porches,

management, operation, and promotion of the Unsold Units or for any other purpose, subject only to compliance with Law; and (ii) lease any Unsold Units to third parties for their occupancy.

12.2. Occupancy. The number of Occupants in each Unit shall not exceed: (i) the Family Members of one family only; or (ii) two (2) individuals unrelated by blood or marriage per bedroom designated on the Plats for that Unit. No transient tenants may be accommodated; provided, however, that the guests and invitees of Occupants and their lessees may reside in any one Unit for a maximum period of thirty (30) days per calendar year. A Unit owned or leased by a corporation, partnership, fiduciary, or any other entity may be occupied by an officer, director, partner owner, beneficiaries, or employees of such entity, of by Family Members of guests of any of the foregoing.

12.3. Animals. Except as permitted by the Asociation Rules & Regulations, the Affiliated Association Rules & Regulations or the Master Association Rules & Regulations, if any, adopted by the Association Board, the Affiliated Association Board or the Master Association Board, as applicable, no animals, livestock or poultry of any kind shall be raised, bred or kept in the Units, the Common Elements, (whether within the Breezewood I Condominium Regime or the Breezewood II Condominium Regime), or the Shared Common Elements.

12.4. Garbage. All garbage, trash, or rubbish shall be regularly removed from the Units and shall not be allowed to unreasonably accumulate in any Unit or on any Common Element or Shared Common Element.

12.5. Leasing. No Unit or portion thereof shall be leased for transient or hotel purposes. An Owner may nevertheless lease the entire Unit; provided that each lease must be in writing, must be for a period of not less than six (6) months, and must provide that it is subject to this Declaration and the Bylaws and that any failure by a tenant to comply with such shall be a default under the lease; The Owner shall, upon request, promptly provide the Association and the Master Association with copies or any and all leases entered into by the Owner. In no event, however, shall a portion of a Unit (as opposed to the entire Unit) be sold, conveyed, leased or subleased.

12.6. Utility Devises. Except as required by law, no exterior television or radio antennas, satellite dishes or solar panels or other utility devises, of any sort shall be placed, allowed or permitted upon any portion of the exterior of the Units or any exterior Improvement without the prior written approval and the authorization of the Declarant (during the Declarant Control Period) or the Association Board and the Master Association Board. The Declarant, the Association, the Affiliated Association and the Master Association, for the common benefit of the Owners, reserves the right to install within the Breezewood I Property and the Breezewood II Property such utility devices as are necessary to provide cable TV or similar services.

12.7. Business/Obnoxious Activity. No business activity or any kind or any unreasonably obnoxious or offensive activity shall be carried on either the Breezewood I Property or the Breezewood II Property, nor shall anything be done which may be or may

become a nuisance or unreasonable annoyance to the neighborhood. Neither the Breezewood I Property or the Breezewood II Property shall be used in any way or for any purpose which may endanger the health or unreasonably disturb an Owner or his Occupants. No "For Sale" signs (except as otherwise specifically authorized by the Association or the Master Association), advertising signs or rent signs, bill boards, unsightly objects or nuisances shall be erected, placed or permitted to remain on the Breezwood I Property or the Breezewood II Property, and in no event in the Common Elements or Shared Common Elements. Notwithstanding any provision in this Article to the contrary, during the period of development and sale of the Units, Declarant is permitted, subject to the Laws, to maintain such facilities and conduct such sales activities as Declarant deems reasonably required, convenient, or incidental to, (including "For Sale" signs), the development and sale of the Units. These facilities/activities shall include but not be limited to sales tours, sales parties and promotions at the Shared Amenities, a business/sales office, storage area, construction yards, model units, and signs. During the Declarant Control Period, this provision shall not be amended or revoked without the Declarant's written consent.

12.8. Vehicles. No boats, recreational vehicles, campers, tractors, trucks (other than one pick-up truck rated three-quarter ton or less), or trailers (the "Vehicles") of any Owner or member of his family, his tenants, guests or contract purchasers shall be parked within the Common Elements or the Shared Common Elements, or within the right-of-way of any street in or adjacent to the Breezewood II Condominium Regime. Nothing in their Section shall be deemed to restrict Declarant's normal construction activity during the Declarant Control Period.

12.9. Subdivision/Recombination. Except as otherwise provided in this Declaration, Units may not be subdivided or combined where otherwise prohibited by the Laws and, in any event, without the Association Board's prior written approval.

12.10. Maintenance.

12.10.1 The following items of maintenance and repair shall be performed by the Unit Owners and such maintenance shall not be an item of Common Expense: (i) The repair, replacement and maintenance of all glazing in Units, including windows and doors; and any mechanical or electrical equipment sold with the Unit; (ii) The washing of all exterior windows and glass door lights; (iii) Plantings within flower boxes; (iv) General maintenance of downspouts, gutters and condensation lines; (v) Unless otherwise specified in this Declaration or in the Bylaws, cleaning of the exterior of each Unit; (vi) Roof maintenance, repair and replacement provided, however all roofs and exterior siding shall be replaced with a like or comparable material to that originally installed by the Declarant both in terms of quality and color (vii) Replacement of exterior siding of each Unit provided, however all exterior siding shall be replaced with a like or compatible material to that originally installed by the Declarant both in terms of quality and color; (viii) Exterior painting for each Unit provided, however all painting shall be with a like or compatible paint to that originally installed by the Declarant both in terms of quality and color; and (ix) All fixtures and equipment installed with a Unit commencing at a point where the utility lines, pipes, wires, conduits, or systems are within the Unit's exterior walls. An Owner shall do not act, nor any work that will impair the structural soundness or integrity of another Unit, nor impair any easement or hereditament, nor do any act or allow any condition to exist which will adversely affect the other Units or their Owners.

Nothing shall be done in any Unit or in, on or to the Common Elements or Shared Common Elements that will impair the structural integrity of any Building, Unit or other Improvement within the Breezewood II Condominium Regime or will structurally change the Building of which the Unit is a part, except as is otherwise provided in this Declaration. In no event shall interior partitions contributing to the support of any Unit or the Common Elements or Shared Common Elements be altered or removed.

12.10.2. The following items of maintenance and repair shall be performed by the Association and be a Common Expense:

(a) General Maintenance of rear and front yard, including snow removal from front stoop through and including the sidewalk in front of each Unit and the replacement and repair of the leadwalk and sidewalk to each Unit; provided, however, that the Association shall only be responsible for lawn maintenance in the front and rear yard of each Unit if the rear yard is not fenced in or if there are not other structures or impediments which preclude efficient lawn maintenance (to be determined in the sole and absolute discretion of the Grounds Committee, or if none, then the Association Board). If the rear yard is fenced in and/or there are other structures/impediments which preclude efficient lawn maintenance as determined in the sole and absolute discretion of the Association Board, then the Owner shall be responsible for lawn maintenance and any cost associated therewith shall not be an item of Common Expense.

(b) All private utility systems (other than those serving a single Unit) located outside the exterior walls and/or within the Common Elements shall be maintained by the Association. All public utility systems located outside the exterior walls and/or within the Common Elements shall be maintained by the Association or the appropriate utility company or governmental authority as applicable.

12.10.3. The following items of maintenance and repair shall be performed by the Master Association and be Shared Common Expenses:

(a) General Maintenance of grounds, including snow removal from the Jointly Owned Property and the replacement and repair of any structures or Improvements situated on the Jointly Owned Property.

(b) All private utility systems serving the Shared Common Elements shall be maintained by the Master Association. All public utility systems located within the Shared Common Elements that serve only the Shared Common Elements shall be maintained by the Master Association or the appropriate utility company or governmental authority.

12.11. Governmental Regulations. Each Owner shall comply with all laws, ordinances, governmental building codes, health regulations, zoning restrictions and the like applicable to its Units, Common Elements and Shared Common Elements. In the event of any conflict between any provision of such governmental code, regulation or restriction and any provision of this Declaration, the more restrictive provision shall apply.

12.12. Additional Restrictions. The Declarant (during the Declarant Control Period) and thereafter, the Association or the Association's Board or the Master Association or the Master Association's Board, as applicable, shall have the power to formulate, amend, publish and enforce other reasonable rules and regulations concerning the architectural control and use of the Property and the Jointly Owned Property, as applicable.

12.13. Use of Common Elements and Shared Common Elements. The Common Elements and the Shared Common Elements shall be used only for the furnishing of the services and facilities and for the other uses for which they are reasonably intended and which are incident to the use and occupancy of the Units. No Owner may construct, install, place, store or otherwise maintain any improvements or personal property on or within the Common Elements or the Shared Common Elements. Notwithstanding the preceding or anything in this Declaration to the contrary, Declarant shall have the right, without charge or limitation and so long as there are any Unsold Units, to: (i) erect and maintain signs of any size or content determined by Declarant on or about any portion of the Common Elements, including, without limitation, on the exterior walls of a Building or adjacent to the main entrance thereof; (ii) have its employees, contractors, subcontractors, and sales agents present on the Property; and (iii) do all things necessary or appropriate, including the use of the Common Elements, to sell, lease, manage, or operate Unsold Units, to complete any work or repairs to a Building expressly undertaken by Declarant and to comply with Declarant's obligations under the Condominium Documents. In no event, however, shall Declarant be entitled to use any Common Elements or the Shared Common Elements in such a manner as will unreasonably interfere with the use of any Unit for it permitted purposes.

12.14. Limited Liability. In no case shall the Zoning Entity be responsible for failing to provide any emergency or regular fire, police or other public service when such failure is due to lack of access to such areas due to inadequate design or construction, blocking of access routes, inadequate maintenance, or any other factor within the control of the Declarant, the Association, the Master Association, Owners or Occupants. In no case shall the City of Raleigh or the State of North Carolina be responsible for maintaining any Private Street. Such responsibility shall rest with the Association, the Affiliated Association or the Master Association.

12.15. Waiver. Notwithstanding anything above to the contrary, the Declarant (during the Declarant Control Period), the Association's Board or the Master Association's Board shall have the right, in the exercise of their reasonable discretion, to waive one or more violations of the requirements of this Article. No waiver shall be effective unless in writing and nevertheless shall not operate as a waiver of any other requirement respecting the Unit in question or any other Units subject to this Declaration. No waiver shall be effective if it shall cause the Unit or structures thereon to be in non-conformance with any Law.

13. MORTGAGES/MORTGAGEES.

13.1. Notice. An Owner shall notify the Association Board and the Master Association Board of the name and address of the Mortgagee for each Mortgage on its Unit and upon request shall file a conformed copy of the Mortgage(s) with the Association Board and the Master Association Board. Upon a Mortgagee's written request (an "Eligible Mortgagee"), the

Association Board and the Master Association Board as the case may be shall promptly provide written notice to the Eligible Mortgagee of: (a) any unpaid Assessments due from, or any other default by, the Owner of the mortgaged Unit; (b) any condemnation or casualty loss that affects a material portion of the Building or the mortgaged Unit; (c) a lapse, cancellation, or material modification of any insurance policy maintained by the Association or the Master Association as applicable; and (d) any proposed action that required the consent of the holders of mortgages constituting first liens on Units. Upon the happening of a default under the terms of their mortgage or other liens which would permit the holder to declare the entire principal sum due, notice of the intention of the holder to do so shall be given to the Association Board or the Master Association Board, as the case may be, but the failure to give such notice shall not prevent the holder from instituting a Foreclosure action. The Foreclosure of a Mortgage will extinguish the lien for any unpaid Assessments that are payable before the Foreclosure sale.

13.2. Mortgage Approval.

13.2.1. Notwithstanding anything in Article 10 to the contrary, in the event of damage to one or more Buildings resulting from an insurable hazard or condemnation, the following actions shall require the written approval of not less than a Majority in Interest of the affected Eligible Mortgagees: (i) a repair or restoration of the damage other than in accordance with the original plans and specifications for the Units; (ii) a termination of the Breezewood II Condominium Regime rather than a repair or restoration of the damage; or (iii) a reallocation of the Allocated Common Elements Interests or the Shared Common Element Interests other than as contemplated elsewhere in this Declaration.

13.2.2. Notwithstanding anything in Section 6.1 to the contrary, any amendments to this Declaration which materially amend or add to the provisions of this Declaration relating to: (i) voting, (ii) assessments, assessment liens, or the subordination of such liens (iii) reserves for maintenance or the repair or replacement of Common Elements or Shared Common Elements, (iv) insurance or fidelity bonds, (v) rights to use of the Common Elements and the Shared Common Elements, (vi) responsibility for repair and maintenance of the Breezewood II Condominium Regime, (vii) the expansion or contraction of, or the addition, annexation or withdrawal of property to or from, the Breezewood II Condominium Regime, or (viii) the boundaries of any Unit, shall require the written approval of not less than a Majority in Interest of the affected Eligible Mortgagees.

14. ARCHITECTURAL COMMITTEE/ARCHITECTURAL CONTROL.

14.1. Breezewood II Condominium Regime

14.1.1 Members. The Architectural Committee for the Breezewood II Condominium Regime, save and except the Jointly Owned Property, shall consist of one (1) or more persons designated by the Declarant. At such time as Declarant no longer owns any part of the Breezewood II Property (or earlier if the Declarant shall surrender this right in a written instrument in recordable form executed by Declarant), the Declarant shall assign to the Association the rights, powers, duties and obligations of the Architectural Committee. Upon this

assignment, the Association Board shall appoint three (3) or more persons as the members of the Architectural Committee. Prior to December 31, 2022, this provision shall not be amended or revoked without the Declarant's written consent.

14.1.2. Powers. The Architectural Committee for the Breezewood II Condominium Regime shall have the right to refuse to approve any plans and specifications for Improvements proposed to be constructed (the "Plans & Specifications") which are not suitable or desirable, in its sole discretion, for aesthetic or any other reasons, provided such approval is not unreasonably withheld. The Architectural Committee for the Breezewood II Condominium Regime shall not have the right to disapprove Plans & Specifications based upon the number of bedrooms within the proposed Units so long as there are not more than three (3) bedrooms in any proposed Unit. In approving or disapproving Plans & Specifications, the Architectural Committee for the Breezewood II Condominium Regime shall consider the purpose of the Declaration as discussed in the Recitals, including the suitability of the proposed Improvements and material to be used in those Improvements, the site upon which the Improvements are proposed to be erected, and the effect of the Improvements on adjacent or neighboring property. There is specifically reserved unto the Architectural Committee for the Breezewood II Condominium Regime the right of entry and inspection upon any Breezewood II Condominium Regime Unit for the purpose of determining whether there exists any construction of any Improvements which violates the terms of any approval by the Architectural Committee for the Breezewood II Condominium Regime or the terms of the Declaration or of any other applicable covenants, conditions and restrictions. The Architectural Committee, the Association Board or the Master Association Board as applicable, are specifically empowered to enforce the provisions of this Declaration by any legal or equitable remedy. In the event it becomes necessary to resort to litigation to determine the propriety of any constructed Improvement, or to remove any unapproved Improvements, the prevailing party shall be entitled to recovery of all court costs and expenses (including reasonable attorney's fees).

14.1.3. Approval of Plans & Specs. No Improvement shall be commenced, erected, or maintained upon the Breezewood II Property, nor shall an Improvement be repaired or rebuilt after destruction by any hazard until completed Plans & Specifications showing the nature, kind, space, height, materials, color and location of the Improvement shall have been submitted to and approved in writing by the Architectural Committee for the Breezewood II Condominium Regime. Unless otherwise approved by the Association, all roofs, exterior siding, fixtures and painting shall be replaced with a like or compatible material to that originally installed by the Declarant both in terms of quality and color. A failure to approve or disapprove completed Plans & Specifications within forty-five (45) days after they have been submitted shall be deemed to be an approval of those Plans & Specifications. Neither the Association, the Associations Board, the Declarant, the Architectural Committee or any officer, employee, director or members thereof shall be liable for damaged to any persons by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval, disapproval or failure to approve any Plans & Specifications. Every person who submits Plans & Specifications for approval agrees, by the submission of such Plans & Specifications, that it will not bring any action or suit to recover any such damages.

14.1.4. Declarant Facilities. Notwithstanding any provision in this Article to the contrary, during the period of development and sale of the Units the Declarant is permitted, subject to the laws of the applicable governmental authority, to maintain such facilities and conduct such sales activities as Declarant deems reasonably required, convenient, or incidental to the development and sale of the Units. These facilities/activities shall include but not be limited to sales tours, sales parties and promotions at the Shared Amenities, a business/sales office, storage area, construction yards, model units, and signs. Prior to December 31, 2022, this provision shall not be amended or revoked without the Declarant's written consent.

14.2 Jointly Owned Property. All matters involving Architectural Control and the Jointly Owned Property, the Shared Common Elements and the Shared Amenities shall be governed exclusively by the Master Association Board.

15. DEFAULT/REMEDIES.

15.1. Default. Failure of the Association Board, the Master Association Board, the Owner, or Occupant to comply with the terms of the Condominium Documents or any Rules & Regulations, as they may be amended from time to time, shall be a default and grounds for an action to recover sums due, damages and/or injunctive relief, by the Association Board (on behalf of the Association or one or more of the Owners) or by the Master Association Board, or by an Owner in its own behalf as the case may be. In the case of flagrant or repeated violations by an Owner, that Owner may be required by the Association Board or the Master Association Board to provide sufficient surety or sureties for its future compliance.

15.2. Remedies. In the event of any default in and/or breach of any of the terms, conditions and provisions of the Condominium Documents, the Association Rules & Regulations or the Master Association Rules & Regulations (either actual or threatened) the aggrieved party shall have the right to specific performance and/or injunction in addition to any and all other rights and remedies at law or in equity, In any proceeding arising because of an alleged default by an Owner, or by the Association Board, or the Master Association Board, the prevailing party shall be entitled to recover the costs of the proceedings, including, but not limited to, reasonable attorneys' fees. The right and remedies provided by this Declaration are distinct and cumulative and they use of any one right or remedy by any party shall not preclude or waive its right to use any or all other remedies. No delay or omission of a party to exercise any right or poser arising from another's default shall impair any such right or power, or shall be construed to be a waiver of any such default or acquiescence therein. The rights and remedies provided in this Declaration are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

16. TERMINATION.

16.1. The Breezewood II Condominium Regime may be terminated in accordance with the provisions of N.C.G.S. 47C-2-118. Provided, however, in the event of such termination, the Owners of Units in the Breezewood II Condominium Regime shall have no further rights in or claims to the Jointly Owned Property inasmuch as the one-half (1/2) undivided interest of the

Declarant in the Jointly Owned Property was acquired by the Declarant subject to that certain shifting executory interest more fully described in that certain North Carolina Special Warranty deed from Breezewood Holdings, LLC to Wake North Developers, LLC recorded in Book 013267, Page 02550 in the office of the Wake County Register of Deeds.

17. MISCELLANEOUS.

17.1. Anti-Discrimination. No action in the enforcement or interpretation of this Declaration shall at any time be taken by the Declarant, the Association, the Master Association, the Association's Board or the Master Association's Board, which in any manner would unfairly discriminate against any Owner in favor of any of the other Owners.

17.2. Waiver. The Declarant (during the Declarant Control Period) and thereafter the Association, the Association's Board, the Master Association or the Master Association's Board shall have the right in the exercise of their reasonable discretion, to waive one or more violations of the requirements of this Declaration. No waiver shall be effective unless in writing and nevertheless shall not operate as a waiver of any other requirement respecting the Unit in question or any other Units subject to this Declaration. No waiver shall be effective if it shall cause the Unit or its Improvements to be in non-conformance with any applicable Law.

17.3. Enforcement. The Declarant (during the Declarant Control Period), the Association, the Master Association or any Owner shall have the right to enforce, by a proceeding at law or in equity, the terms of this Declaration. Failure by the Association, the Master Association or by any Owner to enforce any covenant or restriction herein shall in no event be deemed a waiver of the right to do so thereafter. The court may award the prevailing party its reasonable attorneys' frees incurred in such enforcement action.

17.4. Severability. Invalidation of any one or more 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.

17.5. Amendment. Except as specifically otherwise provided in the Condominium Documents, this Declaration may be amended by a vote of Owners holding not less than sixty-seven percent (67%) of all of the Allocated Common Element Interests and sixty seven percent (67%) of the Shared Common Element Interests. If an amendment is properly adopted, the Board shall, within thirty (30) days cause the amendment to be recorded with the Wake County Registry. All amendments shall be effective from the date of recordation in the office of the Wake County Register of Deeds. Notwithstanding the above provisions to the contrary, during the Declarant Control Period, an amendment, to be effective, must also obtain the Declarant's written approval. No amendment shall affect the use of a Unit which was approved pursuant to the terms of this Declaration prior to the effective date of the Amendment.

17.6. Disputes. In the event of any dispute concerning a provision of this Declaration, such dispute shall be settled by legal proceedings or the parties may, by mutual agreement, submit the dispute to a committee appointed by the Association and the Master Association for

that purpose, and once submitted, the parties agree to be bound by the decision of that committee.

17.7. Voting. Voting by Members of the Association and the Master Association shall be in accordance with the Article 7 of this Declaration and the applicable provisions set forth in the Bylaws of the Association and the Master Association as applicable.

17.8. Owner Addresses. Each Owner agrees to keep the Association and the Master Association informed of his address at any time and any notice sent or delivered to that address shall be sufficient. Each new Owner agrees to provide the Association and the Master Association with evidence of his ownership for preparation of an Owner roster and the roster as so completed shall be sufficient evident as to the ownership of each Unit.

17.9. Notice. All notices under this Declaration shall be in writing. Unless delivered personally, all notices shall either be delivered by a nationally recognized overnight express delivery service or be given by certified mail, postage prepaid, return receipt requested, addressed to the addresses maintained pursuant to Section 17.8 hereof or, if none, to the address noted on the most recent Wake County tax records for the owner of the Unit.

17.10. Gender and Grammar. All words and phrases in this Declaration shall be construed to include the singular or plural number, and the masculine, feminine, or neuter gender, as the context requires.

17.11. Owner Responsibility. Notwithstanding anything in this Declaration to the contrary, an Owner shall be responsible for any and all violations of this Declarations by its employees, agents, tenants, guests and invitees. When a party to this Declaration consists of more than one individual or entity, such party's liability shall be joint and several.

17.12. Construction. This Declaration shall be construed in accordance with the laws of the State of North Carolina without giving effect to its conflicts of laws principles. In the event of a conflict between the provisions of this Declaration and the provisions of the Association Articles of Incorporation, the Association Bylaws, the Master Association Articles of Incorporation or the Master Association Bylaws the provisions of this Declaration shall control.

17.13. Exhibits. All Exhibits and Schedules, if any, attached to this Declaration are incorporated by reference and made a part of this Declaration.

IN WITNESS WHEREOF, the undersigned have executed, sealed and delivered this Declaration be signed in the Company name, sealed, and delivered, all as the act of the Company, on the date first above written.

[SIGNATURES FOLLOW ON NEXT PAGE]

[SIGNATURE PAGE TO DECLARATION CREATING UNIT OWNERSHIP-BREEZEWOOD II CONDOMINIUM REGIME]

DECLARANT:

WAKE NORTH DEVELOPERS, LLC.
A North Carolina Limited Liability Company

By: _____ Manager-Member
James K. Pendergrass, Jr.
Manager-Member

CONSENTING CO-OWNER OF JOINTLY OWNED PROPERTY:

FALLS LANDING DEVELOPERS, LLC

By: _____ Manager-Member
James K. Pendergrass, Jr.
Manager-Member

[ACKNOWLEDGMENTS FOLLOW ON NEXT PAGE]

BK013280PG02464

STATE OF NORTH CAROLINA

COUNTY OF Wake

I, Jillian K Daneau, a Notary Public for said County and State do hereby certify that James K. Pendergrass, Jr. personally appeared before me this day and acknowledged that he is the Manager-Member of WAKE NORTH DEVELOPERS, LLC., a North Carolina Limited Liability Company, and that by authority duly given and as the act of the Limited Liability Company, the foregoing instrument was signed in its name by him.

Witness my hand and official stamp or seal this the 23rd day of October, 2008.

JILLIAN K DANEAU NOTARY PUBLIC WAKE COUNTY, NC

Jillian K Daneau
Notary Public

Jillian K Daneau
Printed Name

My Commission Expires: 4-2-2013

****

STATE OF NORTH CAROLINA

COUNTY OF Wake

I, Jillian K Daneau, a Notary Public for said County and State do hereby certify that James K. Pendergrass, Jr. personally appeared before me this day and acknowledged that he is the Manager-Member of FALLS LANDING DEVELOPERS, LLC, a North Carolina Limited Liability Company, and that by authority duly given and as the act of the Limited Liability Company, the foregoing instrument was signed in its name by him.

Witness my hand and official stamp or seal this the 23rd day of October, 2008.

JILLIAN K DANEAU NOTARY PUBLIC WAKE COUNTY, NC

Jillian K Daneau
Notary Public

Jillian K Daneau
Printed Name

My Commission Expires: 4-2-2013

EXHIBIT "A"

Parcel One:

BEING all of Lot 3-Portion of Phase 1-as shown and more particularly described on sheet two (2) of two (2) of that certain two (2) plat series entitled "Breezewood Condominiums Lots 2 & 3 Subdivision and Tree Conservation Area Plat" prepared by Withers & Ravenel – Engineers | Surveyors | Planners dated May 29, 2008 and recorded in Book of Maps 2008, Pages 1801 and 1802 in the Office of the Wake County Register of Deeds.

Parcel Two:

BEING all of Lot 4 as shown and more particularly described on sheet two (2) of two (2) of that certain two (2) plat series entitled "Breezewood Condominiums Lots 4 - 7 Subdivision and Tree Conservation Area Plat" prepared by Withers & Ravenel – Engineers | Surveyors | Planners dated February 5, 2008 and recorded in Book of Maps 2008, Pages 1803 and 1804 in the Office of the Wake County Register of Deeds.

Parcel Three:

BEING all of Lot 5 as shown and more particularly described on sheet two (2) of two (2) of that certain two (2) plat series entitled "Breezewood Condominiums Lots 4 - 7 Subdivision and Tree Conservation Area Plat" prepared by Withers & Ravenel – Engineers | Surveyors | Planners dated February 5, 2008 and recorded in Book of Maps 2008, Pages 1803 and 1804 in the Office of the Wake County Register of Deeds.

BK013280PG02466

EXHIBIT "B"

Parcel One:

BEING all of Lot 1 as shown on that certain plat entitled "Breezewood Condominiums-Lot 1-Boundary Plat" prepared by Withers & Ravenel-Engineers|Surveyors|Planners dated September 10, 2008 recorded in Book of Maps 2008, Page 1872 in the Office of the Wake County Register of Deeds;

Parcel Two:

BEING all of Lot 2 as shown and more particularly described on sheet two (2) of two (2) of that certain two (2) plat series entitled "Breezewood Condominiums Lots 2 & 3 Subdivision and Tree Conservation Area Plat" prepared by Withers & Ravenel – Engineers | Surveyors | Planners dated May 29, 2008 and recorded in Book of Maps 2008, Pages 1801 and 1802 in the Office of the Wake County Register of Deeds.

Parcel Three:

BEING all of Lot 6 as shown and more particularly described on sheet two (2) of two (2) of that certain two (2) plat series entitled "Breezewood Condominiums Lots 4 – 7 Subdivision and Tree Conservation Area Plat" prepared by Withers & Ravenel – Engineers | Surveyors | Planners dated February 5, 2008 and recorded in Book of Maps 2008, Pages 1803 and 1804 in the Office of the Wake County Register of Deeds.

BK013280PG02467

EXHIBIT "C"

BEING all of Lot 7 as shown and more particularly described on sheet two (2) of two (2) of that certain two (2) plat series entitled "Breezewood Condominiums Lots 4 – 7, Subdivision and Tree Conservation Area Plat, prepared by Withers & Ravenel – Engineers | Surveyors | Planners dated February 5, 2008 and recorded in Book of Maps 2008, Pages 1803 and 1804 in the Office of the Wake County Register of Deeds.