TAMMY L. BRUNNER
REGISTER OF DEEDS
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Prepared by and return to:
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NORTH CAROLINA
WAKE COUNTY

TWENTY-THIRD AMENDMENT TO DECLARATION OF THE ORCHARD VILLAS, A CONDOMINIUM

This TWENTY-THIRD Amendment to DECLARATION OF THE ORCHARD VILLAS, A CONDOMINIUM (the "Amendment") is made this 19th day of July, 2021, by **the ORCHARD VILLAS CONDOMINIUM UNIT OWNERS ASSOCIATION, INC.**, a North Carolina non-profit corporation, hereinafter referred to as the "HOA." The HOA states and declares as follows:

WITNESSETH:

WHEREAS, Apex OV, LLC, a Virginia corporation (the "Declarant") has previously executed and recorded in Book 13231, Page 1555, Wake County Registry, that certain Declaration of The Orchard Villas, A Condominium (the "Original Declaration"), which has previously been amended by the First Amendment To Declaration of The Orchard Villas, A Condominium, recorded in Book 13283, Page 2309, Wake County Registry, and further amended by the Second Amendment To Declaration of The Orchard Villas, A Condominium, recorded in Book 13615, Page 1924, Wake County Registry, and further amended by the Third Amendment To Declaration of The Orchard Villas, A Condominium, recorded in Book 14019, Page

Submitted electronically by "Hopler, Wilms & Hanna, PLLC"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Wake County Register of Deeds.

2364, Wake County Registry, and further amended by the Fourth Amendment/ Supplement to Declaration of The Orchard Villas, A Condominium, recorded in Book 14358, Page 710, Wake County Registry, and further amended by the Fifth Amendment/ Supplement to Declaration of The Orchard Villas, A Condominium, recorded in Book 14811, Page 1301, Wake County Registry, and further amended by Sixth Amendment/ Supplement to Declaration of The Orchard Villas, A Condominium, recorded in Book 15054, Page 2015, Wake County Registry, as corrected by Corrective Affidavit recorded in Book 15134, Page 2174, Wake County Registry, and further amended by the Seventh Amendment/Supplement to Declaration of The Orchard Villas, a Condominium, recorded in Book 15215, Page 710, Wake County Registry, as corrected by Corrective Affidavit recorded in Book 15294, Page 248, Wake County Registry and further amended by the Eighth Amendment/Supplement to Declaration of The Orchard Villas, A Condominium, recorded in Book 15274, Page 183, Wake County Registry, as corrected by Corrective Affidavit recorded in Book 15294, Page 251, and further amended by the Ninth Amendment/Supplement to the Declaration of The Orchard Villas, A Condominium, recorded in Book 15294, Page 410, Wake County Registry, and further amended by the Tenth Amendment/Supplement to Declaration of The Orchard Villas, A Condominium, recorded in Book 15406, Page 1295, Wake County Registry, as corrected by Corrective Tenth Amendment/Supplement to Declaration of The Orchard Villas, A Condominium, recorded in Book 15547, Page 2100, and further amended by the Eleventh Amendment to Declaration of The Orchard Villas, A Condominium, recorded in Book 15508, Page 2443, Wake County Registry, and further amended by the Twelfth Amendment/Supplement to Declaration of The Orchard Villas, A Condominium, recorded in Book 15521, Page 2713, Wake County Registry, and further amended by the Thirteenth Amendment/Supplement to Declaration of The Orchard Villas, A Condominium, recorded in Book 15565, Page 2665, Wake County Registry, and further amended by the Fourteenth Amendment/Supplement to the Declaration of The Orchard Villas, A Condominium, recorded in Book 15649, 2529, Wake County Registry, and further amended by the Fifteenth Amendment to Declaration of The Orchard Villas, A Condominium, recorded in Book 15678, Page 354, Wake County Registry, and further amended by the Sixteenth Amendment/ Supplement to Declaration of The Orchard Villas, A Condominium, recorded in 15716, Page 1243, Wake County Registry, and further amended by the Seventeenth Amendment/Supplement to Declaration of The Orchard Villas, A Condominium, recorded in Book 15772, Page 2761, and further amended by the Eighteenth Amendment/Supplement to Declaration of The Orchard Villas, A Condominium, recorded in Book 15772, Page 2771 , Wake County Registry, and further amended by the Nineteenth Amendment/Supplement to Declaration of the Orchard Villas, a Condominium, recorded in Book 15862, Page 650, Wake County Registry, and further amended by the Twentieth Amendment/Supplement to Declaration of The Orchard Villas, A Condominium, recorded in Book 15886, Page 1, Wake County

Registry, and further amended by the Twenty-First Amendment/Supplement to Declaration of The Orchard Villas, A Condominium, recorded in Book 15954, Page 432, Wake County Registry, and further amended by the Twenty-Second Amendment/Supplement to Declaration of The Orchard Villas, A Condominium, recorded in Book 16037, Page 2026, Wake County Registry (the Original Declaration and all amendments and supplements thereto being herein referred to individually and collectively as the "Declaration"). Any capitalized terms used in this Supplementary Declaration but not defined herein shall have the meaning of such term as set forth in the Declaration.

WHEREAS, pursuant to NCGS 47C-2-117(a) and Article X of the Declaration, the Declaration may be amended by affirmative vote of unit owners of units to which at least sixty-seven percent (67%) of the allocated votes in the HOA; and

WHEREAS, the HOA desires to amend the Declaration.

NOW, THEREFORE, in consideration of the foregoing, the Declaration is hereby amended as follows:

1) Article I, Section 21 of the Declaration is hereby deleted in its entirety and replaced with the following:

> **"Limited Common Elements"** shall mean those portions of the Common Elements allocated by this Declaration, the Plans or by operation of Section 47-2-102(2) or (4) of the Act for the exclusive use of one, but fewer than all, of the Units including, but not limited to, any deck, porch, or patio appurtenant to a Unit, and including the area between the sidewalk and the front exterior wall of each Unit.

2) Article II, Section 7(c) of the Declaration is hereby deleted in its entirety and replaced with the following:

> (viii) in the case of Unit with a screened or glassed in porch, the space in the screened or glassed in porch;
>
> (ix) the attic space or storage space above a Unit, to which the Unit has direct and exclusive access; and
>
> (x) in the case of a unit allowed to install an awning, the awning

3) Article V, Section 3(n) of the Declaration is hereby deleted in its entirety and replaced with the following:

Unmanned Guardhouse. The guardhouse as reflected on the recorded plat was not built, and therefore, unit owners should lock their doors and take any and all reasonable precautions against potential criminal activity.

4) Article VIII, Section 3(b) of the Declaration is hereby deleted in its entirety and replaced with the following:

Public Liability. The Board shall also obtain and maintain to the extent obtainable, public liability insurance in which limits as the Board may from time to time determine, which shall not be less than that required by private institutional mortgage investors for projects similar in construction, location and use, covering the Association, each member of the Board, the managing agent, if any, and each Unit Owner, which respect to his liability arising out of the ownership, maintenance, repair, or use of the Common Elements and legal liability arising out of the lawsuits related to employment contracts of the Association. Such insurance shall include endorsements covering cross liability claims of one insured against another, including the liability of the Unit Owners as a group to a single Unit Owner. The Board shall review such limits annually. Until the first meeting of the Unit Owners, such public liability insurance shall be in amounts not less than $1,000,000.00 for claims for bodily injury and/or for claims for property damage.

The coverage obtained by the Board must provide for at least 30 days written notice to the Association and to any holder of a first mortgage on an individual Unit before the insurer can cancel or substantially modify it.

5) Article XI, Section 6 of the Declaration is hereby deleted in its entirety and replaced with the following:

Financial Statements The Association will provide any Eligible Mortgagee or each Eligible Insurer which submits a written request with an annual financial statement within 90 days following the end of each fiscal year of the Association or such later time as made available from the auditor. Such financial statement will be reviewed or audited by an independent certified public accountant if:

(a) The Condominium contains fifty or more Units, in which case the cost of the review or audit shall be a Common Expense; or

(b) Any Eligible Mortgagee or Eligible Insurer requests it, in

which case the Eligible Mortgagee or Eligible Insurer will bear the cost of the review or audit.

That this Amendment shall be effective upon the recordation in the Office of the Register of Deeds of Wake County;

[The Remainder of this Page Intentionally Left Blank.]

IN WITNESS WHEREOF, the HOA has caused this Amendment to be executed as of the date first stated above.

CERTIFICATION OF VALIDITY OF AMENDMENT TO THE ORCHARD VILLAS, A CONDOMINIUM UNIT OWNERS ASSOCIATION, INC.

By authority of its Board of Directors, the undersigned hereby certifies that the foregoing instrument has been duly executed by the Unit Owners of sixty-seven percent (67%) of the votes of the Association and is, therefore, a valid amendment to the existing Declaration of the Orchard Villas, A Condominium for The Orchard Villas, A Condominium Unit Owners Association recorded on August 29, 2008, in Book 013231 Page 01555 - 01626, Wake County Register of Deeds.

HOA:

The Orchard Villas, A Condominium Unit Owners Association, Inc.
A North Carolina Non-Profit Corp.

By: _____

Print Name: Peter H. Walker

Title: Chairman

ATTEST:

By: Betty J. Mizell

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, a Notary Public of the County and State aforesaid, certify that PETER H. WALKER / BETTY J. NIXEL personally came before me today and acknowledged the due execution of the foregoing instrument.

Witness my hand and official stamp or seal, this the 19 day of JULY, 2021.

BRIAN P BOWCOCK NOTARY PUBLIC JOHNSTON COUNTY, NC

Brian P. Bowcock
Notary Public
My Commission Expires: 10/18/2025