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Prepared by: John B. Adcock, P.A. of Cumalander, Adcock & McCraw, LLP
On behalf of K&A Developers, L.L.C. only
Hold for: Cumalander, Adcock & McCraw, LLP # 51

NORTH CAROLINA
WAKE COUNTY

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR MILL RIDGE SUBDIVISION
PHASE II & DECLARATION OF ANNEXATION**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is entered into this 11 day of July, 2005, by K & A Developers, LLC, a NC Limited Liability Company (hereinafter referred to as "Declarant"); and all parties hereafter acquiring any of the described property.

WITNESSETH:

WHEREAS, Declarant is the owner of all lots within a subdivision in the County of Wake, State of North Carolina, known as MILL RIDGE SUBDIVISION, PHASE 2, and being all of Lots 21 through 42, Lot 74, and open space and more particularly described by map and survey recorded in Book of Maps 2005, page 1359 and page 1360, Wake County Registry; and

WHEREAS the lots are to be used for residential purposes as well as common real estate and improvements that are to be owned by a Homeowner's Association to which the owner of a lot must belong and pay lien-supported assessments.

WHEREAS, it is in the best interest of the Declarant and to the benefit, interest and advantage of every party hereafter acquiring any of the described property that certain covenants, conditions, easements assessments, liens and restrictions governing and regulating the use and occupancy of the property be established; and

WHEREAS, Declarant desires to provide for the preservation of the values and amenities and desirability and attractiveness of said property; and for the continued maintenance and operation of any recreational and/or common area; and

WHEREAS, as the Covenants and Homeowners Association documents would better serve the homeowners subject thereto if set forth in one document covering all lots to be developed in Mill Ridge Subdivision.

WHEREAS, at the time of the conveyance of a Lot to an Owner, the Declarant intends to make available the common amenities on the Property, if any, as they are built, and, at the time of completed development, the entire Property, excluding the Lots and dedicated streets, if any, shall be conveyed without cost or charge to the Association, except as otherwise stated herein.

NOW THEREFORE, in consideration of the premises, Declarant does hereby declare that all of the properties referred to above shall be held, occupied, improved, encumbered, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties, or any part thereof, their heirs, successors and assigns, for the term of these covenants as set forth below, and shall inure to the benefit of each holder thereof.

NOW THEREFORE, the Mill Ridge Subdivision community is being created under the authority of the North Carolina Planned Community Act as amended and modified (Chapter 47F of the N.C. General Statutes).

ARTICLE I

PROPERTIES SUBJECT TO THIS DECLARATION & DECLARATION OF ANNEXATION

Except as set out herein, the property which shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the County of Wake, State of North Carolina, and is more particularly described as being all of that property, except for Lot 74, shown on map and survey recorded in Book of Maps 2005, page 1359 and page 1360, Wake County Registry, plus all easements and common areas as shown on the aforesaid map. The Declarant hereby subjects the heretofore-described property, to this Declaration and the jurisdiction of the Association. Additional properties may be subjected to these Declarations.

Furthermore, except as limited herein, Mill Ridge Subdivision, Phase II is hereby annexed to the properties subject to that Declaration of Covenants, Conditions and Restrictions For Mill Ridge Subdivision, recorded at Book 10643, Page 1932, Wake County Registry.

Lot 74 as shown in Book of Maps 2005, page 1359, Wake County Registry, is being intentionally omitted from the jurisdiction and obligations of this Declaration and the Association, and in no event shall Lot 74 be subject to the provisions and obligations of this Declaration or the jurisdiction of the Association.

ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to Mill Ridge Community Association, Inc., a N.C. Non-profit Corporation its successors and/or assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot or common area which is a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Permanent Common Open Space" shall mean all the real estate (including retention ponds, storm drainage improvements, entrance signage, streets (including any dedicated streets prior to their acceptance for public maintenance) and all landscaping and other improvements thereon) owned by the Association for the common use and enjoyment of the Owners. Common Areas shall include, but not be limited to, the Recreational Facilities and parcels designated on the Subdivision plat as "Park" (unless such parks are later dedicated to the public by a subsequent dedication plat or conveyance), "COS," "Open Space," "Alley (Private)," "Common Area" or reserved as an access drive or private street. Such areas shall be dedicated in perpetuity to the common use and enjoyment of the owners. The Declarant will convey all Permanent Common Open Space shown on the various plats of the subdivision to the Association. The Association shall be responsible for the repair and maintenance of the Permanent Common Open Space and improvements thereto, as set forth in this Declaration, including without limitation, the pond, and the private road, if any, a road maintenance agreement for same being set forth in this Declaration.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Permanent Common Open Space.

Section 6. "Declarant" shall mean and refer to K & A Developers, LLC, a N.C. Limited Liability Company their successors and assigns as a Declarant.

Section 7. "Common Expense" shall mean and include all charges, costs and expenses incurred by the Association for and in connection with the administration of the Subdivision, including, without limitation thereof:

- (a) All sums lawfully assessed by the Association against its members;
- (b) Expenses of the common area and administration, maintenance, repair, improvement or replacement of the permanent Common Open Space;
- (c) Expenses declared to be common expenses by the provisions of this Declaration or the By-Laws;
- (d) Hazard, liability, or such other insurance premiums as the Declaration or the By-Laws may require the Association to purchase;
- (e) Ad valorem taxes and public assessment charges lawfully levied against common areas.
- (f) Expenses agreed by the members to be common expenses of the Association.
- (g) All administrative, legal and managerial expenses associated with administration of the subdivision.

Section 8. "Planned Community Act" shall mean and refer to the North Carolina Planned Community Act, currently codified as Chapter 47F of the North Carolina General Statutes, as the same may be amended from time to time.

Section 9. "Annexation Agreement" shall mean that Declaration of Annexation and Agreement recorded at Book 9508, Page 2061 in the Wake County Registry. Said Annexation

Agreement being between the K & A Developers and the Town of Fuquay-Varina, a North Carolina Municipal Corporation.

Section 10. "Development Period" means the period commencing on the date on which this Declaration is recorded in the Wake County Register of Deeds and terminating on the earlier to occur of (i) when Declarant no longer owns any of the property depicted on that map recorded at Book of Maps 2002, Page 255, Wake County Registry; (ii) the date that Declarant relinquishes in writing Declarant's right to appoint Directors; or (iii) the occurrence of the date ten (10) years from the date of recording the Declaration, renewable for an additional ten (10) year period with the consent of a majority of Lot Owners other than the Declarant.

ARTICLE III

PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Permanent Common Open Space and over the common open spaces for access, ingress and egress from and to public streets, walkways and parking areas and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to suspend the voting rights of an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;
- (b) the right of the Association to dedicate or transfer all or any part of the Permanent Common Open Space to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members.
- (c) the right of the Association, in accordance with its Articles and By-Laws to borrow money for the purpose of improving the Permanent Common Open Space and facilities and in aid thereof to mortgage said property, and the rights of such mortgagee in said Properties shall be subordinate to the rights of the homeowners hereunder;
- (d) the right of the Board to adopt and enforce and from time to time amend reasonable limitations upon use and Rules and Regulations pertaining to the use of the Common Areas, including regulations limiting guests of Owners and Tenants who may use the Common Areas at any one time;
- (e) all applicable provisions of valid easements and/or agreements of the Association relating to the Common Areas, including, without limitation, the Recreational Facilities Easement Agreement and the Roadway Declaration;
- (f) the right of the Association to grant permits, licenses and public or private easements over Common Areas for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Property.
- (g) the Annexation Agreement.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Permanent Common Open Space and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Title to permanent Common Open Space. The Declarant hereby covenants for himself, his successors and assigns, that he will convey fee simple title to the Permanent Common Open Space to the Association, free and clear of all encumbrances and liens, except for taxes for the year of conveyance and to restrictions, conditions, limitations and easements of record. Including but not limited to the Annexation Agreement. Said conveyance shall occur at a time determined by the Declarant.

Section 4. Parking Rights. The Association may regulate the parking of boats, trailers and other such items on the Permanent Common Open Space.

Section 5. TV Antennas and Cablevision. The Association may supply cablevision and the cost of this service may be included in annual or special assessments. The Association may regulate or prohibit the erection of television antennas or satellite dishes visible from the streets or other lots or on individual Lots.

ARTICLE IV

HOMEOWNERS ASSOCIATION AND MEMBERSHIP AND VOTING RIGHTS

Section 1. Homeowners Association. There is has been created a North Carolina non-profit corporation, known as Mill Ridge Community Association, Inc., which shall be responsible for the maintenance, management and control of the Common Areas and upon each Lot and Dwelling Unit as more specifically set forth in this Declaration.

Section 1.A. Board of Directors and Officers. The Board of Directors, and such officers as the may elected or appointed in accordance with the Articles or the Bylaws, shall conduct the affairs of the Association. The Board of Directors may also appoint committees and managers or other employees and agents who shall, subject to the general direction of the Board of Directors, be responsible for the day-to-day operation of the Association.

Section 1.B. Rules and Regulations. By a majority vote of the Board of Directors, the Association may, from time to time adopt, amend and repeal Rules and Regulations with respect to all aspects of the Association's rights, activities and duties under this Declaration. The Rules and Regulations may, without limitation, govern use of the Subdivision, including prohibiting, restricting or imposing charges for the use of any portion of the Subdivision by Owners, Residents or others, interpret this Declaration or establish procedures for operation of the Association or the administration of this Declaration; provided, however, that the Rules and Regulations shall not be inconsistent with this Declaration, the Articles, Bylaws or the terms of the Roadway Declaration or the Recreational Facilities Easement Agreement. A copy of the Rules and Regulations, as they may from time to time be adopted, amended or repealed, shall be maintained in the office of the Association and shall be available to each Owner upon request.

Section 2. Every owner of a lot, which is subject to assessment, shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot, which is subject to assessment.

Section 3. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot. Fractional voting with respect to any Lot is hereby prohibited.

Class B. The Declarant shall be a Class B member and shall be entitled to three votes for every one Class A member vote while there is Class B membership. The Class B Membership shall cease and be converted to Class A membership upon the expiration of the Development Period.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them. All assessments relating to common open spaces shall be shared equally by the owners of each Lot.

Section 2. Purpose of Assessments. The assessment levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and in particular for the acquisition, improvement and maintenance of the Permanent Common Open Space, including the maintenance, repair and reconstruction of private roads, and walks and parking areas situated on the Permanent Common Open Space, including the brick privacy all along James Slaughter Road and the front entrance, such maintenance to include the cutting and removal of weeds and grass and the removal of trash and rubbish or any other maintenance or for the use and enjoyment of the Permanent Common Open Space, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes and public assessments assessed against the Permanent Common Open Space, the procurement and maintenance of insurance in accordance with this Declaration, the employments of attorneys to represent the Association when necessary, the provision of adequate reserves for the replacement of capital improvements including, without limiting, the generality of the foregoing, signs, paving, grading, landscaping and any other major expense for which the Association is responsible, and such other needs as may arise.

Section 3. Reserves. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the

common area and those other portions of the Properties, which the Association may be obligated to maintain. Such reserve fund is to be initiated by the payment of \$100.00 by every buyer of a lot in Mill Ridge Subdivision.

Section 4. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \$100.00 per lot owned by a builder and \$200.00 per lot owned by a homeowner. Homeowner includes builders who occupy a lot as a residence.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased effective January 1 of each year without a vote of membership by up to five percent (5%) of the previous year's assessment.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above the increase permitted in Section 4(a) above by a vote of two-thirds (2/3) of the Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than thirty (30) day nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting. The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Permanent Common Open Space, and in connection with exterior maintenance, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each calls of Members who are voting in person or by proxy at a meeting duly called for this purpose. Written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting.

Section 6. Notice and Quorum for Any Action Authorized Under Section 4 and 5. Written Notice of any meeting called for the purpose of taking any action authorized under Section 4 or 5 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Uniform Rate of Assessment. Both annual and special assessments shall, except as herein otherwise specifically provided, be fixed at a uniform rate for all Lots and shall be collected on a monthly basis. Provided, however, that the assessment for Lots owned by Declarant which are not occupied as a residence, may be a lesser amount as fixed by the Board of Directors of the Association.

Section 8. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all Lots upon the recordation of these covenants. Such annual assessments shall be paid ratably on an annual basis, the first payment being due at closing, and every other following year, the payment being due on or before January 31 of each year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth the assessment on a specified Lot have been paid. Any certificate so given shall be conclusive evidence of payment of the assessment stated therein.

Section 9. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten percent (10%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property in the same manner in which Deeds of Trust may be foreclosed under Power of Sale pursuant to Chapter 45 of the N.C. General Statutes, or its successors, and in accordance with The Planned Community Act, and in either event interest, costs and reasonable attorney's fees of any such action shall be added to the assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Permanent Common Open Space or abandonment of his Lot. Should any deficiency remain after the foreclosure, the Association may also bring an action against the Owner for said deficiency.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage and ad valorem taxes. Sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 11. Exempt Property. All Properties dedicated to, and accepted by a local public authority; all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina and Lot 74 as shown on that map recorded at Book of Maps 2005, Page 1359 shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VI

STREET MAINTENANCE AGREEMENT

Any and all private and public dedicated (until accepted by the applicable public authority) roads in the subdivision, shall be maintained by the Association for the benefit of all homeowners in the subdivision

To ensure that the roads at all times are kept serviceable, Declarant, until such time as he turns over maintenance of same over to the Association, will perform periodic maintenance services on the road. The cost of this periodic maintenance shall be borne by the Declarant until such time as he turns maintenance of same over to Association.

In the event that Declarant has turned over maintenance to the Association, and the Association fails to maintain said private road, then a two-thirds (2/3) majority vote of the lot owners may have the road maintained as needed and bill the costs to the Association. Non-payment in this instance will subject the Association to the same remedies as the Association has set forth in the Declaration, for non-payment of assessments. Any lot owner may, at his own expense, perform maintenance on the road, provided such maintenance improves the overall condition of the road.

ARTICLE VII

SITE AND PLAN APPROVAL

No building, fence, swimming pool, wall or other structure shall be commenced, erected, placed, altered or maintained on any premises in said development until the building plans, builder, specification and plot showing the location of such improvements have been approved in writing as to conformity and harmony of external design with existing improvements in the development, and as to the location of the improvements with respect to topography and finished ground elevation by an architectural committee (Architectural Control Committee) composed of the Declarant or its agent designated and appointed by Declarant or its successors in interest. In the event said committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, or in any event, if no suit to enjoin the erection of such improvements or the making of such alterations has been commenced prior to the completion thereof, such approval will not be required and this Article will be deemed to have been fully complied with. In no event shall any lot within the subdivision be subdivided into two or more building lots. Members of such committee shall not be entitled to any compensation for services performed pursuant to this covenant.

While there still is a Class B membership, the Declarant reserves the right to waive any minor violations of setbacks and square footage requirements as set forth herein below, "minor violations" being defined as those violations not exceeding twenty (20%) of the requirement.

ARTICLE VIII

ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Declarant has the absolute right to annex additional residential property, including common areas, which may subject the homeowners in the subdivision to assessments for maintenance of the common areas, while Declarant owns any of the property depicted on that

map recorded at Book of Maps 2002, Page 255, Wake County Registry or for such shorter period as allowed by law. Thereafter, additional properties may be annexed, including common areas, with the consent of at least seventy-five percent (75%) of the lot owners.

Section 2. Annexation of additional Properties shall be accomplished by recording in the County Registry, a Declaration of Annexation, duly executed, describing the lands annexed and incorporating the provisions of this Declaration, either by reference or by fully setting out said provisions of this Declaration. The additional lands shall be deemed annexed to the Properties on the date of recordation of the Declaration of Annexation, and in the case of an annexation by the Declarant, no action or consent of the part of the Association or any other person or entity shall be necessary to accomplish the annexation.

Section 3. All lots, Permanent Common Open Space and property described herein will be subject to that certain Annexation Agreement with the Town of Fuquay Varina as recorded in Book 9508, page 2061, Wake County Registry.

ARTICLE IX

INSURANCE

Section 1. Insurance coverage on the Property shall be governed by the following provisions:

(a) **Ownership of Policies.** All insurance policies upon the common area shall be purchased by the Association for the benefit of all the Association and the Owners.

(b) **Coverage.** All buildings and improvements and all personal property included in the Permanent Common Open Spaces and facilities shall be insured in an amount equal to one hundred percent (100%) insurable replacement value as determined annually by the Association with the assistance of the insurance company providing coverage. Such coverage shall provide protection against:

(i) Loss or damage by fire and other hazards covered by the standard coverage endorsement, and

(ii) Such other risks as from time to time shall be customarily covered with respect to buildings on the land, if any;

(iii) Loss or damage by vandalism, malicious mischief or negligent acts and/or omissions;

(iv) ~~Such policies shall contain clauses providing for waiver of subrogation;~~

(c) **Liability.** Public liability insurance shall be secured by the Association with limits of liability of no less than One Million and No/100 Dollars (\$1,000,000.00) per occurrence and shall include an endorsement to cover liability of the Owners as a group to a single Owner. There shall also be obtained such other insurance coverage as the Association shall determine from time to time to be desirable and necessary.

(d) **Premiums.** Premiums for insurance policies purchased by the Association shall be paid by the Association and charged to the Owners as an assessment according to the provisions of Article V above.

(e) Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the Owners and their mortgagees as their interest may appear, and shall provide that all proceeds thereof shall be payable to the Association as insurance trustees under this Declaration. The sole duty of the Association as insurance trustees shall be to receive such proceeds as are paid and to hold the same in trust for the purposes stated herein or stated in the By-Laws and for the benefit of the Owners and their mortgagees in the following shares:

- (i) Proceeds on account of damage to Permanent Common Open Space and facilities held for the Association.
- (ii) In the event a mortgagee endorsement has been issued for any Lot, the share of the Owner shall be held in trust for the mortgagee and the Owner, as their interests may appear.

Section 2. Distribution of Insurance Proceeds. Proceeds of insurance policies received by the Association as insurance trustee shall be distributed to or for the benefit of the beneficial Owners in the following manner:

- (a) Expense of the Trust. All expenses of the insurance trustees shall be first paid of provisions made therefor.
- (b) Reconstruction or Repair. The remaining proceeds shall be paid to defray the cost of repairs. Any proceeds remaining after defraying such cost shall be distributed to the beneficial Owners as above provided.

Section 3. Fidelity Insurance or Bond. All persons responsible for or authorized to expend funds or otherwise deal in the assets of the Association or those held in trust, shall first be bonded by a fidelity insurer to indemnify the Association for any loss or default in the performance of their duties in an amount equal to six (6) months' assessments plus reserves accumulated.

Section 4. Directors' and Officers' Errors and Omissions Insurance. The Association shall purchase insurance to protect itself and to indemnify any Director or Officer, past or present against expenses actually and reasonably incurred by him/her in connection with the defense of any action, suit or proceeding, civil or criminal, in which he is made a party by reason of being or having been such Director or Officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty to the Association; or to obtain such fuller protection and indemnification for Directors and Officers as the law of North Carolina permits. The policy or policies shall be in an amount to be reasonably determined by the Association.

ARTICLE X

USE RESTRICTIONS

Section 1. Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, amend, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the front yard space of each Lot and the Permanent Common Open Spaces. Such rules and regulations may provide for imposition of fines or

penalties for the violation thereof, or for the violation of any of the covenants and conditions contained in this Declaration.

Section 2. Land Use of Properties. The Architectural Review Committee as established herein shall have control of the following, as they relate to the construction of homes in the Mill Ridge Subdivision: the style of homes, the exterior materials and colors, and the overall landscaping plans.

No lot shall be used except for residential purposes, except that nothing herein shall preclude the use of any lot for a utility purpose for the benefit of this subdivision or access by the Declarant or its successors in interest, except that if any lot is purchased from the developer by an individual lot owner or builder, then said lot must be used for residential purposes only.

Section 3. Building Type. No building shall be erected, altered, placed or permitted to remain on any lot other than one (1) detached single-family dwelling not to exceed two and on-half (2 1/2) stories in height and a private attached garage for not more than three (3) cars and (with the approval of the Architectural Control Committee) an accessory building or structure for storage or another appropriate use.

Section 4. Building Location. No building shall be located on any lot nearer to any property line less than the zoning setbacks established by the Town of Fuquay-Varina. No portion of any building shall be permitted to encroach upon another lot.

Section 5. Nuisance. No noxious or offensive trade or activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become a nuisance or annoyance to the neighborhood. No signs or billboards shall be stored or regularly parked on the premises and no commercial trucks or tractors may be parked regularly upon the premises. No business activity or trade of any kind whatsoever, which shall include, but not be limited to, the use of any residence as a doctor's office, fraternity house, rooming or boarding house, antique or gift shop, shall be carried on upon any lot, except that home offices as permitted under the applicable zoning code shall be allowed.

Section 6. Animals. No animals, livestock or poultry of any kind other than ordinary household pets, shall be kept or maintained on any part of said property. Dogs must be contained within their owners' lots or on leashes. Incessant barking or other offensive activities by household pets shall be considered noxious and offensive, and shall not be permitted.

Section 7. Dwelling Size and Driveways. Except with prior written approval of the Architectural Control Committee, no one-story residential structure which has an area of less than two thousand (2,000) finished heated square feet, exclusive of porches, breezeways, steps and garages, shall be erected or placed or permitted to remain on any lot. One-story structures less than two thousand five hundred (2,500) feet must have an attached garage. No one (1) and one-half (1/2) story residential structure which has an area of less than two thousand five hundred (2,500) finished, heated square feet, exclusive of porches, breezeways, steps and garages, shall be erected or placed or permitted to remain on any lot. No two (2) story residential structure which has an area of less than two-thousand eight hundred (2,800) finished, heated square feet, exclusive of porches, breezeways, steps and garages, shall be erected or placed or permitted to remain on any lot. All driveways shall be concrete from street to each house.

Driveway piping and temporary gravel driveways must be installed before any type of construction is commenced on any lot.

Section 8. Temporary Structures. Except as hereinbefore set forth, no trailer, tent, shack, barn or other out building, except a private garage for not more than three (3) cars, shall be erected or placed on any lot covered by these covenants. Except with the prior consent of the Architectural Control Committee, no detached garage shall at any time be used for human habitation, either temporarily or permanently.

Section 9. Fences. No fence, wall, hedge, mass planting or other fencing-type barrier of any kind shall be permitted beyond the line extending from the front of the house to either side lot line, except upon approval by the Architectural Control Committee. No fence or fencing-type barrier of any kind shall be placed, erected, allowed or maintained upon any portion of the community, including any lot, without the prior written consent of the Architectural Control Committee. The Committee may issue guidelines detailing acceptable fence styles or specifications, but in no event shall hogwire be approved.

Section 10. Accessory Buildings. No accessory building of any nature whatsoever (including but not limited to, detached garages, storage buildings, doghouses, and greenhouses) shall be placed on any lot without the prior written approval of the Architectural Control Committee, with said Committee to have the sole discretion relating to the location and type of accessory building which shall be permitted on any lot. Under no circumstances shall metal storage buildings be permitted. All accessory buildings must conform to the same architectural style as the residence located on the same lot.

Section 11. Appearance. Each owner shall keep his building site free from tall grass, undergrowth, dead trees, trash and rubbish, and properly maintained so as to present a pleasing appearance within the subdivision. In the event an owner does not properly maintain his building site as above-provided, in the opinion of the Declarant and/or the Architectural Control Committee, then Declarant (or his successor in interest), at its option, may have the site cleaned to its or the Architectural Control Committee's satisfaction, and the costs thus incurred shall be the responsibility of the lot owner. The costs of clean up, if expended by the Declarant or its successors in interest, shall be a continuing lien upon the property until the sums due and payable are paid in full.

Location of satellite television receivers must be approved in writing by the Architectural Control Committee, but in no event shall any receiver be visible from any road within the subdivision. No clothesline shall be permitted if visible from any road within the subdivision. Trashcans must be located as to not be visible from any road within the subdivision. Screening for satellite television receivers, clotheslines, and trashcans are subject to approval by the Architectural Control Committee. Communication towers are expressly prohibited. All primary fuel storage tanks must be placed underground. Home curtain foundation wall is expressly prohibited unless approval for same is first obtained, in writing, from the Architectural Control Committee. Brick mailboxes are expressly prohibited. No inoperable motor vehicles, or those motor vehicles not registered with a Department of Motor Vehicles, may be parked on any lot if visible from any road or other lot within the subdivision.

At the option of the Declarant, silt fences may be required to be erected during the period of construction of any striation to be located on any lot, to prevent erosion or other damage to adjoining lots. Construction and maintenance of same shall be borne by the lot owner. In the event an owner does not construct such a fence after being requested to do so by the Declarant, then Declarant (or his successors in interest), at his option, may have the fence erected, and the costs thus incurred shall be the responsibility of the lot owner. The costs of construction of such fence or fences, if expended by the Declarant or his successors in interest, shall be a continuing lien upon the property until the sums due and payable are paid in full.

While there still is a Class B membership, the Declarant reserves the right to waive any minor violations of setbacks and square footage requirements as set forth hereinabove, "minor violations" being defined as those violations not exceeding twenty percent (20%) of the requirement.

ARTICLE XI

EASEMENTS

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the front ten (10) feet of each lot, the rear ten (10) feet of each lot, and ten (10) feet on each sideline, unless shown in excess of such distances on any recorded plat, in which case the plat shall control. Included within these easements is the right to construct a brick privacy wall within the rear ten (10) feet of those lots backing up to James Slaughter Road. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities and drainage facilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retire the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

ARTICLE XII

PARKING

Adequate off-street parking shall be provided by the owner of each lot for the parking of automobiles owned by such owner, and owners of lots shall not be permitted to park their automobiles on the streets in the subdivision. Owner of lots shall not be permitted to park boats, trailers, campers, motor homes, commercial vehicles and all other similar property on the streets in the development, and such property shall not be permitted to be parked in the front yard of where it is visible from any street within the subdivision.

ARTICLE XIII

UNDERGROUND UTILITIES AND STREET LIGHTING

Section 1. Declarant reserves the right to subject the real property described hereinabove to a contract with Progress Energy company or its successors in interest for the installation of underground electric cables and the installation of street lighting, either or both of

which may require a continuous monthly charge to the owner of each lot, or to the Association as a part of the dues assessment.

Section 2. Declarant hereby subjects the real property described hereinabove to a contract with PSNC Energy, its successors and or assigns for the service of natural gas or the like to each lot. The terms of said contract require each home in the subdivision to have a gas water heater and be serviced by gas heat. All lot owners shall be subject to monthly charges by the provider. Any lot owner not accepting service from PSNC Energy (including but not limited to gas water heater and gas heat), its successors and or assigns may be subject to a fee in an amount to be determined, at their discretion, by the Declarant and or PSNC Energy, its successors and or assigns. Said fee, together with interests, costs, and reasonable attorney fees shall be a charge on the land and shall be a continuing lien, upon the lot which does not accept service from PSNC Energy, its successors and or assigns.

Section 3. Each lot shall be served with water from The Town of Fuquay-Varina according to the terms of the Annexation Agreement and the regulations of said Town. All lot owners shall be subject to charges by the Town of Fuquay-Varina. Said charges, including but not limited to tap on fees, service fees, monthly fees and assessments by the Town of Fuquay-Varina, shall be the sole and absolute responsibility of the lot owner.

ARTICLE XIV

GENERAL PROVISIONS

Section 1. Enforcement. Enforcement of these covenants shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, and the aggrieved party may request restraint of the violation or damages resulting from said violation.

Section 2. Severability. Invalidation of any one of these covenants or restrictions or any part thereof by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect, and the failure of any person or persons to take action to enforce these covenants shall not be construed as a waiver of any further enforcement rights.

Section 3. Amendment. During the Development Period, Declarant shall have the absolute right to amend these covenants, which amendment or amendments shall be binding upon all property owners within the subdivision. Thereafter, these covenants may be amended by an instrument signed by not less than seventy-five percent (75%) of the lot owners.

Section 4. Term. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded with the Wake County Register of Deeds office, after which time said covenants shall be automatically extended for successive periods of then (10) years, unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants, in whole or in part.

Section 5. Management and Contract Rights of Association. Declarant may enter into a contract with a Management company manager for the purposes of providing all elements of the operation, care, supervision, maintenance, and management of the property.

Section 6. Rights of Noteholders. Any institutional holder of a first mortgage on a Lot will, upon request, be entitled to (a) inspect the books and records of the Association during normal business hours, (b) receive an annual audited financial statement of the Association within ninety (90) day following the end of its fiscal year, (c) receive written notice of all meetings of the Association and right to designate a representative to attend all such meetings, (d) receive written notice of any condemnation or casualty loss that affects either a material portion of the project or the unit securing its mortgage, (e) receive written notice of any sixty (60) day delinquency in the payment of assessments or charges owed by the owner of any unit on which it holds the mortgage, (f) receive written notice of a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Owner's Association, (g) received written notice of any proposed action that requires the content of a specified percentage of mortgage holders, and (h) be furnished with a copy of the master insurance policy.

Section 7. Reservation of Special Declarant Rights. Declarant reserves the right to maintain sales and management offices, model units, construction trailers, storage or staging areas, and advertising signs upon Lots or the Common Areas and upon Lots owned by it until the expiration of the Development Period and to exercise all other "Special Declarant Rights" as defined in the Planned Community Act. Without limiting the foregoing, and notwithstanding anything herein to the contrary, during the Development Period, Declarant shall have the right to annex additional Lots or Common Areas into the Subdivision by filing a supplement to this Declaration in the Wake County Public Registry together with an amendment to the Plat (if applicable). Such additional Lots or Common Areas need not be contiguous to the Property. Declarant shall have the right to assign all or a portion of any rights or easements reserved herein by a written assignment thereof, recorded in the Wake County Public Registry.

Section 8. Binding Determination. In the event of any dispute or disagreement with or between any Owner(s) relating to, or of any other disputes, disagreements or questions regarding, the interpretation or application of the provisions of this Declaration or the Articles or Bylaws of the Association, the determination thereof (i) by Declarant for so long as Declarant retains control of the Association; and (ii) thereafter by the Board of Directors of the Association shall be final and binding on each and all such Owners; providing that any determination which directly or indirectly affects Declarant shall require Declarant's prior consent to become binding upon Declarant.

Section 9. Captions and Titles. All captions, titles or headings in this Declaration are for the purpose of reference and convenience only and are not deemed to limit, modify or otherwise affect any of the provisions hereof, or to be used in determining the intent or context thereof.

Section 10. Notices. Except as otherwise provided in this Declaration, any notice to any Owner under this Declaration shall be in writing, shall be effective on the earlier of (i) the date when received by such Owner, or (ii) the date which is three days after mailing (postage prepaid) to the last address of such Owner set forth in the books of the Association. The address of an Owner shall be at his Lot (or any of them if more than one) unless otherwise specified in writing to the Association. The Articles and Bylaws shall specify the permissible manner of

giving notice for voting and all other Association matters for which the manner of giving notice is not prescribed in this Declaration.

Section 11. Governing Law. This Declaration shall be deemed to be made under, and shall be construed in accordance with and shall be governed by, the laws of the State of North Carolina, and suit to enforce any provision hereof or to obtain any remedy with respect hereto shall be brought in state court in Wake County, and for this purpose each Owner by becoming such hereby expressly and irrevocably consents to the jurisdiction of said court.

Section 12. Snow Removal, Maintenance, Reconstruction or Resurfacing. The Association, at the cost and expense of the Association, shall provide snow removal from, maintenance to and resurfacing or reconstruction of any non-dedicated streets or any storm water drainage facilities included as a part thereof or installed thereunder as it deems necessary or appropriate from time to time within its sole discretion.

IN WITNESS WHEREOF, the Declarant has hereunto set his hand and seal, this the

11 day of July, 20 05.

K & A Developers, LLC

By: William R. Akins (SEAL)
William R. Akins, Member-Manager

By: Dewey D. Keith (SEAL)
Dewey D. Keith, Member-Manager

By: Jimmy Keith (SEAL)
Jimmy Keith, Member-Manager

By: Bryant Keith (SEAL)
Bryant Keith, Member-Manager

NORTH CAROLINA
WAKE COUNTY

I, the undersigned Notary Public, do hereby certify that William R. Akins, Dewey D. Keith, Jimmy Keith, and Bryant Keith, Member-Managers of K. & A Developers, LLC, a limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official stamp or seal this

11 day of July, 20 05.

Paula M. Whitsett
My commission expires 13 Aug 08

Notary Public

