

STATE OF NORTH CAROLINA
COUNTY OF JOHNSTON

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR THE JAMISON RIDGE
SUBDIVISION, PHASE TWO

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR the JAMISON RIDGE SUBDIVISION, PHASE TWO (as may be amended or supplemented as set forth herein, "Declaration") is made this 10th day of June 2019 by **JAMES M. GILBERT, INC.**, a North Carolina corporation, whose address is PO Box 236, Clayton, NC 27528 (the "Declarant").

WITNESSETH:

- A. Declarant is the owner and developer of certain real estate in Johnston County, North Carolina, and more particularly described on Exhibit A attached hereto and made a part hereof (the "Property" or "Subdivision"); and
- B. Declarant is developing the Property known as "JAMISON RIDGE SUBDIVISION, PHASE TWO" by subdividing it into "Lots" that are to be used for residential purposes as well as common easement areas and improvements thereon that are to be owned and maintained by a homeowners association to which the Owner of a Lot must belong and pay lien-supported maintenance assessments; and

THEREFORE, the Declarant hereby declares that all of the Lots and Common Areas (defined below) located within the Subdivision are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following covenants, conditions and restrictions, all of which are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Subdivision as a whole and of each of said Lots. All lot owners will be subject to monthly dues established by the Association for the maintenance and upkeep required by these declarations. Every lot owner shall be a member of the Association and subject to the rules and regulations adopted by the Association. Failure of any lot owner to pay dues or assessments will result in the filing of a lien upon the property of such owner as hereafter provided. All of these restrictions shall run with the land and shall be binding upon the Declarant and upon the parties having or acquiring any right, title or interest, legal or

Page 2 of 24

equitable in and to the Property or any part or parts thereof subject to such restrictions, and shall inure to the benefit of the Declarant and every one of the Declarant's successors in title to any of the Property.

ARTICLE I **DEFINITIONS**

Section 1.1: "Annual Organizational Board Meeting" means the annual organizational board meeting of the Board, which shall take place immediately after each Annual Meeting of the Members.

Section 1.2: "Annual Meeting" means the annual meeting of the Members held in Johnston County, North Carolina, within the last quarter of each calendar year, upon proper notice, at a date, time and at a place from time to time designated by the Board. The first Annual Meeting of the Members shall be held within one (1) year from the date of incorporation on such date as the initial Board shall determine.

Section 1.3: "Articles" or "Articles of Incorporation" shall mean those articles, filed with the Secretary of State of North Carolina, incorporating Jamison Ridge Subdivision, Phase Two Homeowners Association, Inc., as a nonprofit corporation under the provisions of North Carolina State law, as the same may be amended from time to time.

Section 1.4: "Assessments" means Regular Assessments, Special Assessments, Working Capital Assessments, Individual Assessments and Fine Assessments.

Section 1.5: "Association" shall mean and refer to Jamison Ridge Subdivision, Phase Two Homeowners Association, Inc., to be formed as a non-profit corporation, its successors and assigns.

Section 1.6: "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Association.

Section 1.7: "Bylaws" shall mean the Bylaws of the Association, as the same may be amended from time to time.

Section 1.8: "Class A Members" shall mean as defined in Section 4.5.1 below.

Section 1.9: "Class B Members" shall mean as defined in Section 4.5.2 below.

Section 1.10: "Constituent Documents" shall mean the Declaration, the Bylaws, the Articles of Incorporation, the Roadway Declaration and the Rules and Regulations, if any, and any other basic documents used to create and govern the Subdivision.

Section 1.11: "Common Areas" shall mean those areas shown on that plat recorded in Plat Book 88, pages 436-437, Johnston County Registry and more particular described as follows: (1)

Page 3 of 24

the mail kiosk area located in front of Lot 45; (2) that 30-foot by 30-foot sign easement located on Lot 27; and (3) that 10-foot by 70-foot sign triangle area located on Lot 46. None of the common areas shall be owned outright by the Association but the Association shall own as easement as indicated for the common use and benefit of the Owners.

Section 1.11(a): "Semi-Common Areas" shall mean those areas shown on that plat recorded in Plat book 88, pages 436-437, Johnston County Registry and more particularly described as follows: those HOA Stormwater easements shown on Plat Book 88, pages 436-437, Johnston County Registry.

Section 1.12: "Common Expenses" shall mean, refer to, 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, operation of the Subdivision, maintenance, repair, replacement and restoration (to the extent not covered by insurance) of the Common Areas; the costs of any additions and alterations thereto; all labor, services, common utilities, materials, supplies, and equipment therefor; all liability for loss or damage arising out of or in connection with the Common Areas and their use; all premiums for hazard, liability and other insurance with respect to the Subdivision; all costs incurred in acquiring a Lot pursuant to judicial sale; and all administrative, accounting, legal, and managerial expenses. "Common Expenses" shall also include the cost of operation, maintenance, improvement, and replacement of any Recreational Facilities, including establishing reserves therefore. "Common Expenses" shall also include amounts incurred in replacing, or substantially repairing, capital improvements within the Common Areas of the Subdivision. "Common Expenses" shall also include all reserve funds or other funds established by the Association. "Common Expenses" shall be construed broadly.

Section 1.13: "Declarant" shall mean and refer to **JAMES M. GILBERT, INC.**, a North Carolina corporation, its successors and assigns as a Declarant.

Section 1.14: "Default" shall mean any violation or breach of, or any failure to comply with, the Restrictions, this Declaration or any other Constituent Documents.

Section 1.15: "Development Period" means the period commencing on the date on which this Declaration is recorded in the **JOHNSTON** County Register of Deeds and terminating on the earlier to occur of (1) when Declarant no longer owns a Lot in the Subdivision; or (2) the date that Declarant relinquishes in writing Declarant's right to appoint Directors.

Section 1.16: "Dwelling Unit" shall mean and refer to the individual family living unit on an individual Lot.

Section 1.17: "Fine Assessment" means the charge established by Section 5.5.2 of this Declaration.

Section 1.18: "Individual Assessment" means the charge established by Section 5.4 of this Declaration.

Page 4 of 24

Section 1.19: "Lot" shall mean and refer to any parcel of land designated on the Plat upon which a Dwelling Unit has been or is to be constructed. The Declarant has initially created Twenty Six (26) Lots in the Subdivision and has the right to establish additional Lots in accordance with the terms of this Declaration.

Section 1.20: "Member" shall mean and refer to all those Owners who are Members of the Association as provided in Article IV below.

Section 1.21: "Owner" shall mean and refer to the record owner, including Declarant, whether one or more persons or entities, of a fee simple title to any Lot located within the Subdivision.

Section 1.22: "Plat" shall mean and refer to the record plat of the Subdivision recorded by Declarant, as the same may be amended or supplemented by Declarant from time to time.

Section 1.23: "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 1.24: "Property" or "Subdivision" shall mean and refer to that certain real estate described in Exhibit A and all other real estate that may be annexed into this Declaration and the Association by the Declarant.

Section 1.25: Omitted.

Section 1.26: Omitted.

Section 1.27: Omitted.

Section 1.28: "Regular Assessment" means the charge established by Article V of this Declaration.

Section 1.29: "Resident" shall mean and refer to any person, not an Owner, living in the Owner's Dwelling Unit, including, but not limited to, temporary guests and Tenants.

Section 1.30: "Restrictions" shall mean all covenants, conditions, restrictions, easements, charges, liens and other obligations provided for in this Declaration, including, without limitation, all notices, rules and regulations issued in accordance with this Declaration.

Section 1.31: Omitted.

Section 1.32: "Rules and Regulations" shall mean and include the rules and regulations made from time to time by the Board of Directors as provided in Section 4.3 below.

Section 1.33: "Special Assessment" means the charge established by Section 5.2 of this Declaration.

Page 5 of 24

Section 1.34: "Tenant" means any person occupying any Lot pursuant to a written or oral lease agreement with the Owner thereof or with any other person or entity claiming under the Owner.

Section 1.35: "Working Capital Assessment" means the charge established by Section 5.3 of this Declaration.

When applicable for the sense of this instrument, the singular should be read as including the plural and the male, female, and neuter pronouns and adjectives should be read as interchangeable.

ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION

The Property, each portion thereof, and all Dwelling Units thereon shall be held, transferred, sold, conveyed, leased, mortgage and occupied subject to the terms, provisions, covenants and conditions of this Declaration.

ARTICLE III
PROPERTY RIGHTS IN COMMON AREAS

There are no common areas in the subdivision. However, upkeep and maintenance of the cluster unit mail box located within the Department of Transportation right of way is the responsibility of the homeowners association.

ARTICLE IV
HOMEOWNERS ASSOCIATION

Section 4.1 Homeowners Association. There is has been or will be created a North Carolina non-profit corporation, known as the Jamison Ridge Subdivision, Phase Two Home Owners Association, Inc. or similar name, which shall be responsible for the maintenance, management and control of such areas and upon each Lot and Dwelling Unit as more specifically set forth in this Declaration.

Section 4.2 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 4.3 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

Page 6 of 24

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 other Constituent document. 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 4.4 Membership of Association. Every Owner of a Lot shall be a Member of the Association. Such Owner and Member shall abide by the Association's Rules and Regulations, shall pay the Assessments provided for in this Declaration, when due, and shall comply with decisions of the Association's governing body. Conveyance of fee simple title to a Lot automatically transfers membership in the Association without necessity of further documents. Membership shall be appurtenant to and may not be separated from ownership of any Lot that is subject to Assessment.

Section 4.5 Classes of Membership. The Association shall have two (2) classes of Membership:

- 4.5.1 Class A Members. Every person, group of persons, or entity which is a record Owner of a fee interest in any Lot upon which a Dwelling Unit has been erected within the Property, shall automatically be a Class A Member of the Association except the Declarant during the Development Period; provided, however, that any such person, group of persons or entity who holds such interest solely as security for the performance of an obligation shall not be a Member. A Class A Membership shall be appurtenant to and may not be separated from ownership of any Lot upon which a Dwelling Unit has been constructed that is subject to Assessment. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. In the event that more than one person, group of persons or entity is the record Owner of a fee interest in any Lot, then the vote for the membership appurtenant to such Lot portion shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. In the event agreement is not reached, the vote attributable to such Lot shall not be cast.
- 4.5.2 Class B Members. The Class B Member during the Development Period shall be the Declarant. The Class B Membership shall cease and be converted to Class A membership upon the expiration of the Development Period.
- 4.5.3 Voting. Each Member shall have one vote with respect to each Lot owned by such Member, **but a Class A Member shall not be entitled to exercise any vote until the expiration of the Development Period.**

Page 7 of 24

Section 4.6 Maintenance Obligations of the Association. The Association, at its expense, shall maintain, operate and keep in good repair, unless such obligations are assumed by any municipal or governmental agency having jurisdiction thereof, such areas and all improvements located thereon for the common benefit of the Subdivision.

The Association shall make the determination as to when maintenance, repair, replacement and care shall be done, and its determination shall be binding. Declarant shall have the right to employ a manager to oversee and implement the Association's maintenance obligations, and any such management fees incurred thereby shall be paid by the Association. The Association shall also perform the other duties prescribed by this instrument or the Association's Rules and Regulations.

Section 4.7 Maintenance Obligation of the Lot Owners. The responsibilities of each Lot Owner shall include:

- 4.7.1 To clean, maintain, keep in good order, repair and replace at his or her expense all portions of his or her Lot and Dwelling Unit. Any repair, replacement and maintenance work to be done by an Owner must comply with any Rules and Regulations of the Association including architectural control and visual harmony.
- 4.7.2 To perform his responsibilities in such manner so as not unreasonably to disturb other persons residing within the Subdivision.
- 4.7.3 Not to paint or otherwise alter, decorate or change the appearance of any exterior portion of his Dwelling Unit, without the written consent of the Association. Not to place sheets or other bed linens on the windows as curtains such that they may be seen externally.
- 4.7.4 Each Lot Owner shall be deemed to agree by acceptance of delivery of a deed to a Lot, to repair and/or replace at his or her expense all portions of the Common Areas which may be damaged or destroyed by reason of his or her own intentional or negligent act or omission, or by the intentional or negligent act or omission of any invitee, tenant, licensee family member, including, but not limited to any repairs necessary which result from damage incurred by pets or vehicles owned by the Lot Owner, or owned by any guest, invitee, Tenant or licensee of such Lot Owner. To the extent that any Common Area is damaged as an insurable loss and the proceeds from the Association's insurance policy are utilized to pay for the loss, the Owner shall be responsible for payment of the deductible as an Individual Assessment in accordance with Section 5.4 and Section 7.7 below.

Section 4.8 Construction Defects. The obligations of the Association and of Owners to repair, maintain and replace the portions of the Subdivision for which they are respectively responsible shall not be limited, discharged or unreasonably postponed by reason of the fact that any

Page 8 of 24

maintenance, repair or replacement may be necessary to cure any latent or patent defects in materials or workmanship in the construction of the project. The undertaking of repair, maintenance or replacement by the Association or Owners shall not constitute a waiver of any rights against any warrantor but such rights shall be specifically reserved. Likewise, this Section 4.8 is not intended to work for the benefit of the person or entity responsible for the construction defect. Also, performance by Association may be delayed if Association does not have the means or the funds to repair the defect or if by repairing the defect, Association would be compromising the right to sue to have the defect corrected and/or to collect damages caused by the defect.

ARTICLE V COVENANT FOR ASSESSMENTS

Section 5.1: **Regular Assessments.** Regular Assessments for the payment of the Common Expenses shall be made in the manner provided herein, and in the manner provided in the Bylaws. The Regular Assessment is established for the benefit and use of the Association and shall be used in covering all of the Common Expenses.

Section 5.2: **Special Assessment.** In addition to levying Regular Assessments, and to the extent that the reserve fund is insufficient, the Board of Directors may levy Special Assessments to construct, structurally alter, or replace improvements which are a part of the Common Areas, provided that funds shall not be assessed for any capital improvement in excess of Five Thousand and 00/100 Dollars (\$5,000.00) for any one item or in excess of Five Thousand and 00/100 Dollars (\$5,000.00) in the aggregate in any one calendar year ("Capital Expenditure Limit") without the prior written consent of sixty-seven percent (67%) of the votes of each Class of Members who are voting either in person or by proxy at a meeting duly called for such purpose or unless expressly stated in the annual budget. The Board of Directors shall have the authority to adjust the Capital Expenditure Limit annually to account for inflation, which adjustment shall be effective each January (hereinafter referred to as the "Adjustment Date") commencing January 1 of the next year following the year during which the sale of the first Lot by Declarant. As of each Adjustment Date, the Capital Expenditure Limit shall be increased from the Capital Expenditure Limit on the date of this Declaration ("Effective Date") by a percentage equal to the percentage increase, if any, in the Consumer Price Index, All Urban Consumers ("CPI-U"), (1982-1984=100), All Items, as compiled and published by the Bureau of Labor Statistics, U.S. Department of Labor ("CPI") from the Effective Date to the Adjustment Date. If after the date of this Declaration the CPI is converted to a different standard reference base or otherwise revised or ceases to be available, the determination of any new amount shall be made with the use of such conversion factor, formula or table for converting the CPI as may be published by any other nationally recognized publisher or similar statistical information reflected by the Board. Until the expiration of the Development Period or the date on which Declarant no longer owns a Lot, whichever is earlier, Declarant shall be one of the consenting Members, or the capital improvement shall not be made. The Board of Directors shall calculate each Lot's proportionate share of the Special Assessment for the capital improvements, and shall give the Lot Owner(s) written notice of the proportionate share and of the date(s) that the Special Assessment is due and payable. Notwithstanding the foregoing, Declarant shall have no

Page 9 of 24

obligations to pay any Special Assessment with respect to any Lot owned by it unless there is a Dwelling Unit located upon the Lot that is occupied as a residence.

Section 5.3: **Working Capital Assessment.** Upon the initial transfer of record of the Lot from the builder to the Lot Owner with a completed dwelling ready for occupancy, the purchaser is required to pay a sum equal to two (2) full months of the Regular Assessment due on his or her Lot as his or her initial contribution to the working capital of the Association. This sum is not an advance payment of the monthly Regular Assessment; rather the sum is allocated to a working capital fund to meet unforeseen expenditures and operating expenses or to purchase any additional equipment or services. This funds shall be paid to the Association at closing and maintained by the Association.

In addition to the working capital, at the closing contemplated herein, each purchaser of a Lot is required to pay a pro-rata share of the Regular Assessment dues for the balance of the calendar year.

Section 5.4: **Individual Assessment.** In the event that the need for maintenance, repair or replacement of any improvement on the Property, for which the Association has the maintenance, repair and/or replacement obligation, is caused through the willful or negligent act of an Owner, his family, his pet(s), Resident, the cost of such maintenance, repairs or replacements shall be paid by such Owner. The Board shall have the maintenance, repair or replacement done and the cost thereof shall be provided by the Board to said Owner and shall be paid by said Owner within thirty (30) days thereafter, unless an earlier date is otherwise set forth herein.

Section 5.5: **Date of Commencement of Assessments; Due Dates; Determination of Regular Assessments; Fine Assessments.** The yearly Regular Assessment provided for herein shall commence as to each Owner of a Lot, except Declarant or builder, on the first day following the initial conveyance of the Dwelling Unit to the homeowner and shall be adjusted according to the number of days remaining in the calendar year. The Declarant, its successors and assigns, shall not be required to pay the Regular Assessment for any Lot which it owns until such time as Declarant or builder transfers the Lot with a completed dwelling to the homeowner. The Board of Directors shall fix the amount of the monthly Regular Assessment to be paid by each Class A Member against each Lot at the beginning of each calendar year.

The regular assessments shall be paid on an annual basis based upon the calendar year. The dues for the following year shall be paid in full in December of the previous year. The association shall send a written notice to each homeowner in sufficient time for the homeowner to pay the bill in full prior to the end of December.

The Board of Directors, or an adjudicatory panel established by the Board of Directors, may levy a reasonable Fine Assessment, as a fine or penalty for violation of this Declaration, all in accordance with the Planned Community Act. A lien may be filed for this Fine Assessment and this Fine Assessment may be enforced by foreclosure and otherwise treated as a Regular Assessment.

Page 10 of 24

Both Regular and Special Assessments for a Lot Owner shall be determined by the Association based upon the proportion that each Lot bears to the aggregate number of Lots located on the Property, except those owned by Declarant which are not assessed in accordance with Section 5.5.1 above. The Association's governing body may, at its discretion, waive the Regular Assessment for any year or part of a year for any Lot not occupied as a residence.

Section 5.6: **Billing.** The Association shall inform each homeowner of the amount of the total Regular Assessment due from the homeowner. This Regular Assessment must be paid in full yearly in December of the year for the upcoming year, or as otherwise required by the Association.

Payment is to be made to such person at such an address as Association determines. Special Assessments are due promptly after the bill for the Special Assessment has been mailed or otherwise sent out by Association, unless the Association otherwise directs. The homeowners shall be obligated to begin paying the Regular Assessment as of the first day of the initial conveyance of the to the initial homeowner.

Section 5.7: **Omitted.**

Section 5.8: **Assessment Certificate.** The Association shall, upon demand, at any reasonable time, furnish to any Owner liable for Assessments a certificate in writing signed by an Officer or other authorized agent of the Association, setting forth the status of said Assessments; i.e., "current", and if not current, "delinquent" and the amount due. Such certificate shall be conclusive evidence of the payment of any Assessment therein stated to have been paid. A reasonable charge to cover labor and materials may be made in advance by the Association for each certificate.

Section 5.9: **Books and Records of the Association.** The Association shall keep full and correct books of account. The Association shall make available to all Lot Owners and the holders of all first mortgages on Lots, current copies of the books, records and financial statements of the Association upon reasonable request during normal business hours. All funds collected by the Association shall be held and expended solely for the purposes designated by this Declaration and shall be deemed to be held for the use, benefit and account of the Association and all of the Lot Owners. All books and records must be kept in accordance with good accounting procedures and must be reviewed at least once a year by an independent accounting firm.

Section 5.10: **Non-Payment of Assessment.** Any Assessments levied pursuant to these covenants which is not paid on the date when due shall be delinquent and shall, together with such interest and other costs as set out elsewhere in this Declaration, thereupon become a continuing lien upon the Lot which shall bind the Lot in the hands of the then Owner and the Owner's successors and assigns.

If the Assessment is not paid within thirty (30) days after the due date, the Assessment shall bear interest at a reasonable rate of eighteen percent (18%) per year or at such other reasonable rate set by Association in its minutes, not to exceed the maximum amount allowed by law, and the Association may bring an action at law against the Owner personally obligated to pay the same and/or foreclose the lien against the Lot, in either of which events interest, costs and reasonable

Page 11 of 24

attorneys' fees shall be added to the amount of each Assessment. No Owner may waive or otherwise escape liability for the Assessments by non-use or waiver of use of the Common Areas or by abandonment of his Lot.

Section 5.11: **Priority of Association Lien.** The lien provided for in this Article V shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments and liens of bona fide first mortgages which have been filed of record before a claim of this lien hereunder has been docketed in the office of the clerk of superior court in Johnston County, and may be foreclosed in the same manner as a mortgage on real property under power of sale in an action brought by the Association in accordance with the Planned Community Act. The Association is entitled to recover its reasonable attorneys' fees and court costs and collection costs, as part of the lien. In any such foreclosure action, the Association shall be entitled to become a purchaser at the foreclosure sale.

Section 5.12: **Disputes as to Common Expenses; Adjustments.** Any Owner who believes that the portion of Common Expenses chargeable to his Lot, for which an assessment lien has been filed by the Association, has been improperly charged against his or her Lot, may bring action in an appropriate court of law.

Section 5.13: **Purchaser at Foreclosure Sale Subject to Declaration, Bylaws, Rules and Regulations of the Association.** Any purchaser of a Lot at a foreclosure sale shall automatically become a Member of the Association and shall be subject to all the provisions of this Declaration, the Bylaws and the Rules and Regulations.

Section 5.14: **Non-Liability of Foreclosure Sale Purchaser for Past Due Common Expenses.** When the holder of a first mortgage or first deed of trust of record or other purchaser of a Lot acquires title to the Lot as a result of foreclosure of the first mortgage first deed of trust or by deed in lieu of foreclosure, such acquirer of title, his, her or its successors and assigns, shall not be solely liable for the share of the Common Expenses or other Assessments by the Association chargeable to such Lot which became due prior to the acquisition of title to the Lot by such acquirer, other than Assessments for which a claim of lien has been docketed with the Johnston County clerk of superior court prior to the recordation of the lien being foreclosed. Such unpaid share of Common Expenses or Assessments shall be deemed to be Common Expenses collectible from all of the Lots, including that of such acquirer, his, her or its successors or assigns. This provision shall not relieve the party acquiring title or any subsequent Owner of the subject Lot from paying future Assessments.

Section 5.15: **Liability for Assessments Upon Voluntary Conveyance.** In a voluntary conveyance of a Lot, any grantee or his or her first mortgagee shall inform the Board of Directors in writing of such contemplated conveyance and such grantee or first mortgagee shall be entitled to a statement from the Board of Directors of the Association setting forth the amount of all unpaid Assessments (including current Assessments) against the grantor due the Association. Neither the grantee nor the mortgagee shall be personally obligated for any delinquent Assessments, but such

Page 12 of 24

delinquent Assessments, along with interest, late charges, costs and reasonable attorneys fees shall be a lien against the Lot in accordance with Section 5.10 and Section 5.11 herein.

Section 5.16: **Late Charge.** The Association may impose a charge against any Lot Owner who fails to pay any amount assessed by the Association against his Lot within ten (10) days after such Assessments are due and payable and who fails to exercise his rights under this Declaration or under the laws of the State of North Carolina to successfully contest such Assessment. The amount of the late charge shall be the greater of (a) twenty and 00/100 Dollars (\$20.00), or (b) twenty percent (20%) of the delinquent amount, or such other amount as may be determined by the Association from time to time. Additionally, if a Lot Owner shall be in Default in payment of an installment upon an assessment or of a single monthly assessment, the Association has the right to accelerate all monthly Assessments remaining due in the current fiscal year. The total of such Assessments, together with the delinquent Assessments shall then be due and payable by the Lot Owner no later than ten (10) days after the delivery of written notice of such acceleration to the Lot Owner or twenty (20 days) days after mailing of such notice to him by certified mail, whichever occurs first. If such acceleration amount is not paid by the due date, the above-described late charge may be imposed on the part of such accelerated amount not paid by the due date.

Section 5.17: **Miscellaneous.**

The Association may change the interest rate due on delinquent Assessments (including any late charges), except that the rate cannot be changed more often than once every six (6) months. As of its effective date, the new interest rate will apply to all Assessments then delinquent.

The Owner has the sole responsibility of keeping the Association informed of the Owner's current address if different from the Lot owned. Otherwise notice sent by Association to the Lot is sufficient for any notice requirement under this Declaration.

The lien under this Article V arises automatically, and no notice of lien need be recorded to make the lien effective.

The Assessment lien includes all collection costs, including demand letters, preparation of documents, reasonable attorneys' fees, court costs, filing fees, collection fees, and any other expenses incurred by the Association in enforcing or collecting the Assessment.

Any Assessment otherwise payable in installments shall become immediately due and payable in full without notice upon Default in the payment of any installment. The acceleration shall be at the discretion of the Board.

No Owner of a Lot may exempt himself or herself from liability for his or her contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or by the abandonment of his or her Lot.

Page 13 of 24

This Section 5.17 applies to every type of Assessment.

ARTICLE VI
EASEMENTS AND ENCUMBRANCES

Section 6.1: **Easement for Encroachments.** The Dwelling Units, all utility lines, and all other improvements as originally constructed by or on behalf of Declarant or its assigns shall have an easement to encroach upon any setback, Lot or Common Area as a result of the location of the building, utility lines and other improvements across boundary lines between and along Lots and/or the Common Areas, or as a result of building or improvement movement or alterations or additions from time to time, provided that such alterations or additions have complied with the requirements of this Declaration.

Section 6.2: **Lot's Utility Easements.** Easements are granted in favor of each Lot Owner to and throughout the Common Areas and, if necessary, the setback areas of any other Lots, as may be necessary for the installation, maintenance, repair and use of underground water, gas, sewer, power and other utilities and services including power and communication, now or hereafter existing, including maintaining, repairing and replacing any pipes, wires, ducts, conduits, equipment, fixtures, utility, power or communication lines or equipment, or other components. The foregoing notwithstanding, no Lot Owner (other than Declarant) may exercise the easement rights reserved in this Section 6.2 without the prior written approval of the Board as described in Section 6.6 below and the Declarant, so long as it owns a Lot in the Subdivision.

Section 6.3: **Utility Easements.** Easements are reserved and/or granted hereby in favor of the Declarant and/or the Association through each Lot (provided that such easements shall not materially and unreasonably interfere with the use of any dwelling located upon any Lot) and the Common Areas for the purpose of installing, laying, maintaining, repairing and replacing any pipes, wires, ducts, conduits, equipment, fixtures, utility, power or communication lines or equipment, or other components throughout the Common Areas. Without limiting any other provision in this Article 6, it is understood that Declarant's easement rights reserved herein may be utilized for the benefit of property within or outside of the Subdivision. Each Lot Owner and/or his respective mortgagee by acceptance of a deed conveying such ownership interest and each mortgagee encumbering such ownership interest, as the case may be, hereby irrevocably appoint Declarant, or the Association, as the case may be, as his attorney in fact, coupled with an interest, and authorize, direct and empower such attorney, at the option of the attorney, to execute, acknowledge and record for and in the name of such Lot Owner and his mortgagee, such easements or other instruments as may be necessary to effect the purpose of this Section 6.3. The easements may be assigned and/or granted by the Declarant and/or the Association to any utility or service company.

Section 6.4: **General Easements.** An easement is hereby reserved and/or granted in favor of the Declarant and/or the Association in, on, over and through the Common Areas, the Lots and/or

Page 14 of 24

Dwelling Units for the purposes of maintaining, cleaning, repairing, improving, regulating, operating, policing, replacing and otherwise dealing with the Common Areas, Lots and/or Dwelling Units, including all improvements thereon as required or permitted by the Constituent Documents or applicable law. An easement is hereby reserved in favor of Declarant over the Common Areas for the purpose of advertising or promoting sales of Lots or Dwelling Units in the Subdivision.

Section 6.5: **Access Easement.** Appurtenant to each Lot is an easement over any Common Area for necessary pedestrian and vehicular ingress and egress to and from any such Lot over the Common Areas, to and from a thoroughfare. The easement shall be over such walkways, driveways, or other ways as are designated by the Declarant and/or the Association and shall be subject to the terms of the Constituent Documents.

Section 6.6: **Use of Easement.** Any use of the rights and easements granted and reserved in this Article VI shall be reasonable. If any damage, destruction, or disturbance occurs to a Lot or Common Area as a result of the use of any easement or right, the Lot or Common Area shall be restored by, or at the direction of, the Association promptly in a reasonable manner at the expense of the person or persons making the use of the easement or right that resulted in the damage, destruction or disturbance. Before beginning work, Association may require all or any part of the expected expense to be prepaid by that person or those persons liable for the expense. Additionally, should any Lot Owner other than Declarant elect to exercise its easement rights hereunder, it shall be required to obtain the Board's prior written approval (not to be unreasonably withheld), after providing the Board with detailed plans of its proposed work, as well as evidence of appropriate insurance and other such reasonable information or assurances as the Board may require. No easement may be granted across, through, over, or under any Lot or Common Area, which materially restricts ingress and egress to the Lot or Common Area, unless reasonable alternate ingress and egress is provided or unless the restrictions is only temporary. All easements reserved hereunder shall be perpetual and non-exclusive.

Section 6.7: **Reservation of Access Easement by Declarant.** Declarant reserves an easement for itself, its grantees, successor and assigns, to enter upon the Subdivision for access, including ingress and egress for both vehicles and pedestrians, to and from any public street, road, land, walkway or right-of-way. The easement shall be over the streets, sidewalks, bridges and other access ways of the Subdivision. Declarant further reserves the right to connect, at Declarant's expense, to any street, roadway, walkway or other means of access that are located on the Common Areas of the Subdivision. This reservation of access easements and the right of connection should be construed liberally in favor of the Declarant, in order to facilitate the development of all or any portion of JAMISON RIDGE SUBDIVISION, PHASE TWO.

Section 6.8: **Reservation of Construction Easement by Declarant.** The Declarant reserves the non-exclusive right and easement to temporarily go upon the Subdivision in order to complete the development of the Subdivision and the construction of the improvements to be located therein. The easement should be construed broadly in favor of the Declarant, including giving Declarant the right to store temporarily construction materials, equipment or dirt.

Page 15 of 24

Section 6.9: **HOA Stormwater Easements and Wetlands.** There are designated HOA Stormwater Easements and wetlands on the recorded plats. The lot owners affected thereby shall comply with the Code of Federal Regulations regarding these areas.

Those designated portions of this subdivision have been determined to meet the requirements for designation as a stream and/or wetland. Any subsequent fill or alteration of this area shall conform to the requirements of the federal rules addressing stream and/or wetland impacts noted in the Code of Federal Regulations at the time of the proposed alteration. The intent of this provision is to prevent additional stream and wetland impact, so the property owner should not assume that a future application for filling or alteration would be approved. The property owner shall report the name of the subdivision in any application pertaining to said rules. This covenant is to run with the land and shall be binding on all parties and all persons claiming under them. Any property owner shall contact the Army Corps of Engineering at (919) 554-4884 for any questions concerning these designated areas.

Section 6.10: **Declarant's Easements: General.** The easements and grants reserved for and granted to the Declarant also benefit and bind any heirs, successors and assigns of Declarant and their respective guests, invitees or lessees, including, without limitation, assignees of Declarant who do not own property within JAMISON RIDGE SUBDIVISION, PHASE TWO.

Section 6.11: **Easements to Run with Land.** All easements and rights described in this Article VI are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the Declarant, its successors and assigns, and any Owner, purchaser, mortgagee, and other person or entity now or hereafter having an interest in the Subdivision, or any part or portion of it.

Section 6.12: **Reference to Easements and Deeds.** Reference in the respective deeds of conveyance or any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Declaration, shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgagees and trustees in said instruments as fully and completely as those such easements and rights were recited fully and set forth in their entirety in such instruments.

ARTICLE VII **INSURANCE**

Section 7.1: **General Insurance.** The Association shall carry insurance on covering all Common Areas insurable constituting a part of the Subdivision shall be insured against fire and other perils covered by a standard extended coverage endorsement, in an amount not less than one hundred (100%) percent of the replacement value thereof, with a deductible agreed to by the Board of Directors, exclusive of the cost of the land, foundations, footings, excavation, and architect's fees, without deduction for depreciation. The policy shall have cost of demolition, water damage (excluding floods, backing up of sewers and drains, the running off of surface water, and the overflow of a body of water), and agreed amount endorsements and a deductible on any single loss

Page 16 of 24

or group of losses within one year in such amounts as shall be found reasonable by the Board of Directors, after carefully considering and comparing the increased premium costs resulting from a low deductible with the lower premium costs but higher per loss risk resulting from a high deductible, together with all other pertinent factors. The policy providing such coverage shall provide that no mortgagee shall have any right to apply the proceeds thereof to the reduction of any mortgage debt. Such policy shall provide coverage for built-in fixtures and equipment in an amount not less than one hundred percent (100%) of the replacement cost thereof (subject to the deductible provisions described above) and shall also provide that the insurer shall have no right to contribution from any insurance which may be purchased by any Lot Owner as hereinafter permitted. Such policy shall also contain either a waiver by the insurer of any increased hazard clause, a severability of interest endorsement, or a provision stating that the coverage will not be affected by the act, omission or neglect of any person unless such act, omission or neglect is within the knowledge and control of the Association prior to the occurrence of the loss. Such policy shall not provide coverage for any items of personal property owned by any Lot Owner.

The Board of Directors shall review the insurance coverage required under this Section 7.1 at least annually, and if any of such insurance coverage becomes impossible or impractical to obtain, the Association shall obtain coverage that most closely approximates the required coverage with the deductible provisions as determined by the Board of Directors. In any event, all such insurance must comply, at a minimum, with the applicable requirements set forth in the North Carolina Planned Community Act.

The Association shall also maintain general liability insurance in reasonable amounts, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Areas.

Section 7.2: **Fidelity Insurance.** The Association may have fidelity coverage against dishonest acts on the part of Officers and employees, Members of the Association, members of the Board, trustees, employees or volunteers responsible for the handling of funds collected and held for the benefit of the Lot Owners. The fidelity bond or insurance must name the Association as the named insured and shall be written in an amount sufficient to provide protection which is in no event less than the insured's total Regular Assessment, plus all accumulated reserves and all other funds held by the Association either in its own name or for the benefit of the Lot Owners.

Section 7.3: **Directors' and Officers' Errors and Omissions Insurance.** The Association may 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.

Page 17 of 24

Section 7.4: **Premiums.** All premiums upon insurance purchased by the Association shall be Common Expenses. Notwithstanding the foregoing, the Lot Owners may be responsible for certain deductibles to the insurance policies purchased by the Association as outlined in Section 7.1 and Section 7.7 herein.

Section 7.5: **Proceeds.** Proceeds of all insurance policies owned by the Association shall be received by the Association for the use of the Lot Owners and their mortgagees as their interest may appear; provided, however, the proceeds of any insurance received by the Association because of property damage shall be applied to repair and reconstruction of the damaged property, except as may otherwise be permitted by this Declaration.

Section 7.6: **Power of Attorney.** Each Lot Owner shall be deemed to appoint the Association as his true and lawful attorney-in-fact to act in connection with all matters concerning the maintenance of the master policy or any other insurance policy obtained by the Association. Without limitation on the generality of the foregoing, the Association as said attorney shall have full power and authority to purchase and maintain such insurance, to collect and remit the premiums therefor, to collect proceeds and to distribute the same to the Association, the Lot Owners and their respective mortgagees as their interest may appear, to execute releases of liability and to execute all documents and to do all things on behalf of such Lot Owners and the Subdivision as shall be necessary or convenient to the accomplishment of the foregoing; and any insurer may deal exclusively with the Association in regard to such matters.

Section 7.7: **Responsibility of Lot Owner.** The Association shall not be responsible for procurement or maintenance of any insurance covering any Lot or Dwelling Unit, or the contents of and Lot or Dwelling Unit nor the liability of any Lot Owner for injuries not caused by or connected with the Association's operation, maintenance or use of the Common Areas or other property located in the Subdivision. Each Lot Owner shall, at his or her own expense, obtain public liability insurance for personal injuries or damage arising out of the use and occupancy of or occurring within his Lot or Dwelling Unit. In addition, each Lot Owner shall maintain fire and extended coverage insurance on his Dwelling Unit, and the contents of his Dwelling Unit. The Association may request the Lot Owner to provide a copy of the policy(s) to the Association evidencing this insurance coverage at any time.

Each Lot Owner agrees that if any Owner(s) damages a building or other improvements now or at any time hereafter constituting a part of the Common Areas of the Subdivision which is covered under the Association's insurance policy, the Owner or Owners causing such damage shall be responsible for paying the lesser of: (a) the insurance deductible due under the Association's insurance policy; or (b) the cost to repair and/or replace any damage to a building or other improvements, which amount shall be due within ten (10) days after the delivery of written notice of such deductible due or replacement/repair costs by the responsible Lot Owner(s) or twenty (20) days after mailing of such notice by certified mail, whichever occurs first. In the event a Lot Owner refuses or fails to pay the insurance deductible or replacement/repair costs in the time period provided in the preceding sentence, the amount thereof may be advanced by the Association and the

Page 18 of 24

amount so advanced by the Association shall be assessed to such Owner as an Individual Assessment, which shall be due and payable following seven (7) days written notice.

Section 7.8: **Release.** All policies purchased under this Article VII by either the Association or the individual Lot Owners shall provide for the release by the issuer, thereof, of any and all rights of subrogation or assignment and all causes and rights of recovery against any Lot Owners, member of their family, their employees, their tenants, servants, agents and guests, the Association, any employee of the Association, the Board, or any occupant of a Dwelling Unit in the Subdivision, for recovery against any one of them for any loss occurring to the insured property resulting from any of the perils insured against under the insurance policy.

Section 7.9: **Approximate Coverage.** If any of the required insurance coverage under this Article VII becomes or is impossible to obtain or can be obtained only at an unreasonable cost, the Association shall obtain coverage which most closely approximates the required coverage, if such substitute insurance is available.

Section 7.10: **Additional Policy Requirements.** All such insurance coverage obtained by the Association shall be written in the name of the Association, for the use and benefit of the Association, the Lot Owners and their mortgagees, as further identified below. Such insurance shall be governed by the provisions hereinafter set forth:

- | | |
|----------------|---|
| Section 7.10.1 | Exclusive authority to adjust losses under policies in force on the Subdivision obtained by the Association shall be vested in the Association provided, however, that no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto. |
| Section 7.10.2 | In no event shall the insurance coverage obtained by the Association hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their mortgagees, and the insurance carried by the Association shall be primary. |
| Section 7.10.3 | All casualty insurance policies shall have an agreed amount endorsement with an annual review by one or more qualified persons. |
| Section 7.10.4 | The Association shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

-a waiver of subrogation;
-that no policy may be canceled, invalidated, or suspended on account of the acts of any one or more individual Owners; |

- that no policy may be canceled, invalidated or suspended on account of the conduct of any Director, officer or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner or mortgagee; and
- that any "other insurance" clause in any policy exclude individual Owner's policies from consideration.

ARTICLE VIII **ASSOCIATION**

Section 8.1: Association. The administration of the Subdivision shall be vested in the Association. The Owner of any Lot, upon acquiring title, shall automatically become a Member of the Association and shall remain a Member until such time as his ownership of such Lot ceases for any reason, at which time his membership in the Association shall automatically cease. The Association shall have full power and responsibility to administer, operate, sustain, maintain, and govern the Subdivision including but not limited to, the powers and responsibilities to make prudent investments of funds held by it; to make reasonable Rules and Regulations; to borrow money; to make Assessments; to bring lawsuits and defend lawsuits; to enter into contracts; to enforce all of the provisions of this Declaration, the Bylaws and any other documents or instruments relating to the establishment, existence, operation, alternation of the Subdivision. The powers of the Association shall be construed liberally and shall include, without limitation, all of the powers set forth in Section 47F-3-102 of the Planned Community Act.

Section 8.2: Board of Directors. Unless otherwise specifically stated in this Declaration, the Association shall act exclusively through its Board of Directors (the "Board"). The Association in accordance with the Bylaws shall choose the Board. The Board shall be authorized to delegate the administration of its duties and powers by written contract to a managing agent or administrator employed for that purpose by the Board.

Section 8.3: Limitations on Association's Duties.

-The Association did not construct the improvements, including the Dwelling Units. The Association does not warrant in any way or for any purpose, the improvements in the Subdivision. Construction defects are not the responsibility of the Association.

-The Association shall have a reasonable time in which to make any repair or do any other work, which it is required to do under the Constituent Documents. The Association must first have actual knowledge of a problem. Any determination of the reasonableness of the Association's response, must

Page 20 of 24

allow for the facts that the Association is volunteer and that the funds available to the Association are limited.

-In case of ambiguity or omission, the Board may interpret the Declaration and the other Constituent Documents, and the Board's interpretation shall be final if made without malice or fraud. Notwithstanding the foregoing, the Declarant may overrule any interpretation affecting it, for so long as Declarant owns any portion of the Property or any portion of the JAMISON RIDGE SUBDIVISION; and such interpretation cannot be enforced against the Declarant, its successors or assigns.

ARTICLE IX **RESTRICTIVE COVENANTS**

The Declarant does hereby incorporate that Declaration of Restrictive Covenants recorded in Book _____, page _____, Johnston County Registry. To the extent there is any conflict between those Restrictive Covenants and this Declaration, the Restrictive Covenants shall control.

ARTICLE X **ENFORCEMENT**

Enforcement.

The Association or any Lot Owner may enforce these covenants, conditions and restrictions. Enforcement of these covenants, conditions and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate ("Violating Party") any covenant, condition or restriction, either to restrain or enjoin violation or to recover damages, and against the land to enforce any lien created by these covenants. In addition to all other amounts due on account of said violation or attempted violation, the Violating Party shall be liable to the parties enforcing the covenants and/or restrictions of this Declaration (the "Enforcing Parties") for all reasonable attorney's fees and court costs incurred by the Enforcing Parties. Failure or forbearance by the Association or any Owner to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In any lawsuit filed to enforce this Declaration by injunction or restraint, there shall be and there is hereby created and declared to be a conclusive presumption that any violation or breach or any attempted violation or breach of any of the within covenants, conditions or restrictions cannot be adequately remedied by action at law or by recovery of damages.

In addition to all other remedies of the Association, the Association shall have the right to assess a maximum fine of \$150.00 per day (or such higher amount as may be allowed by law) per violation against any Owner who violates any provision of this Declaration or the Articles, Bylaws

Page 21 of 24

or Rules and Regulations of the Association after such Owner has been given notice of the violation and an opportunity to be heard with respect to the violation in accordance with such policies and procedures as may be adopted from time to time by the Board of Directors or as may be set forth in the Bylaws.

In addition to the above rights, the Association may also enter upon a Lot or any land upon which a violation exists to remove any violation, perform maintenance or make repairs thereon which is the responsibility of a Lot Owner who has failed to remove said violation or to perform such maintenance or make such repairs (i) after having given such owner at least seven (7) days prior notice, or (ii) without giving notice in the event of an emergency.

Any action brought by the Association hereunder may be brought in its own name, in the name of its Board or in the name of its managing agent. In any case of flagrant or repeated violation by a Lot Owner, he or she may be required by the Association to give sufficient surety or sureties for his or her future compliance with the covenants, conditions and restrictions contained in this Declaration, the Bylaws and the Rules and Regulations.

Severability. Invalidation of any one of these covenants, conditions or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Restrictions Run With Land. The easements or other permanent rights or interests are herein created, the covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Dwelling Unit subject to this Declaration, their respective legal representatives, heirs, successors, and assigns.

Amendment. The Association (the Declarant controlling the Association until the expiration of the Development Period) may amend this Declaration at any time, as long as consistent with the design, scheme and purposes of this Declaration, by the affirmative vote or written agreement of the Owners to whom not less than sixty-seven percent (67%) of all of the votes in the Association are allocated in accordance with Section 4.4 and Section 4.5 above. Any amendment must be recorded in the Johnston County Register of Deeds. Following the end of the Development Period, no such agreement to amend, in whole or in part, shall be effective unless written notice of the proposed amendment is sent to every Member at least thirty (30) days in advance of any action taken, and no such amendment shall be effective with respect to any permanent easements or other permanent rights or interests relating to the Common Areas herein created (unless such amendment is consented to in writing by Declarant and all other beneficiaries of such permanent easements, rights of interests).

Reservation of Special Declarant Rights. Declarant reserves the right to maintain a sales and management office, model unit, construction trailer, 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

Page 22 of 24

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 Johnston County 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 Johnston County Registry.

Management and Service Contracts. Any agreement for the professional management of the Subdivision of the Common Areas may not exceed three (3) years and shall provide for termination by either party without cause and without payment of a termination fee upon reasonable notice.

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 (1) by Declarant for so long as Declarant retains control of the Association; and (2) 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.

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.

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.

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 Johnston County, and for this purpose each Owner by becoming such hereby expressly and irrevocably consents to the jurisdiction of said court.

ARTICLE XI **MORTGAGEE'S RIGHTS**

Notice of Rights of Mortgagee of a Lot. As used herein, the term "Mortgagee" shall mean the holder of a first lien mortgage or deed of trust on a Lot who provides notice to the Association

Page 23 of 24

with its name and address with a request to receive any notices and other rights provided to "Mortgagees" under this Article X. A Mortgagee of a Lot shall be entitled to receive written notification of any default, not cured within sixty (60) days after its occurrence, by the Owner of the Lot with respect to any obligation of the Owner under the Declaration, the Bylaws of the Association or the Articles of Incorporation of the Association. Any Mortgagee of a Lot can make the request for notification. The notification shall be sent not later than the 65th day after the occurrence of an uncured Default.

Rights of First Refusal. Any right of first refusal now or hereafter contained in this Declaration or any amendment or modification hereto or otherwise arising in favor of the Association or certain Owners shall not apply to or preclude or impair in any way the right of the first Mortgagee to (I) foreclose or take title to the Lot pursuant to the remedies provided in its mortgage; (ii) accept a deed or assignment in lieu of foreclosure in the event of a default under the Mortgage; or (iii) sell or lease a Lot and Dwelling Unit acquired by the Mortgagee.

Rights of Mortgagee. Unless at least seventy five percent (75%) of the Mortgagees (based upon one vote for each first mortgage or deed of trust owned), and a vote of seventy-five percent (75%) of the votes allocated to the Members entitled to vote hereunder, the Association shall not:

- by an act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Subdivision or Common Areas or improvements located thereon which are owned directly or indirectly by the Association for the benefit of the Lots or the conveyance of Common Area to a local governmental authority;

- change the method of determining the obligations, assessments, dues or other charges which may be levied against a Lot;

- fail to maintain fire and extended coverage insurance on insurable Common Areas on current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost); or

- use hazard insurance proceeds for losses to any Common Areas for other than the repair, replacement or reconstruction of such Common Areas.

Right to Examine Books and Records. Mortgagees, their successors or assigns, shall have the right to examine the books and records of the Association.

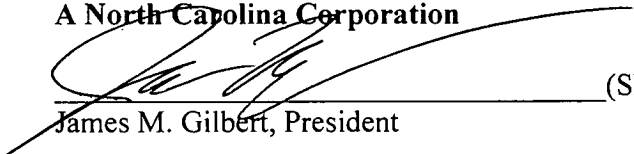
Taxes and Insurance. Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Lot and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such Lot, and first mortgagees making such payments shall be owed immediate reimbursement therefor from the Lot Owner.

Page 24 of 24

Insurance Proceeds and Condemnation Awards. No provision of this Declaration or any other document or instrument affecting the title to the Property, Common Areas, any Lot or the organization or operation of the Association shall give an Owner or any other party priority over any rights of first mortgagees of Lots within the Subdivision pursuant to their mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or taking of Common Areas.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed as of the day and year first above written.

JAMES M. GILBERT, INC.
A North Carolina Corporation



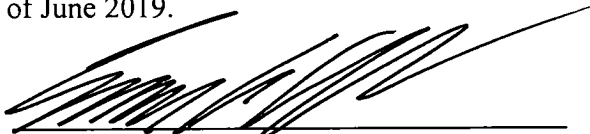
James M. Gilbert, President (SEAL)

NORTH CAROLINA

JOHNSTON COUNTY

I, **EMERY D. ASHLEY**, a notary public for the County of Johnston, State of North Carolina, certify that **James M. Gilbert** personally came before me this day and acknowledged that he is **President** of **JAMES M. GILBERT, INC., A North Carolina Corporation** and that he as **President**, being authorized to do so, execute the foregoing on behalf of **JAMES. M. GILBERT, INC., A North Carolina Corporation**.

Witness my hand and seal, this 10TH day of June 2019.



Emery D. Ashley, Notary Public

My Commission Expires:
NOVEMBER 5, 2020

(Official Seal)

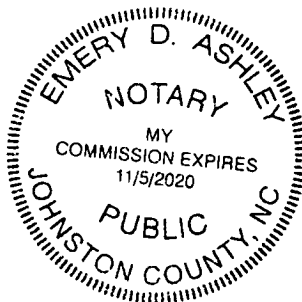


EXHIBIT A

**BEING All of Lots 27 through 46 of the JAMISON RIDGE SUBDIVISION,
PHASE TWO as shown on that plat which is recorded at Plat Book 88, pages
436-437, Johnston County Registry.**