

STATE OF NORTH CAROLINA
COUNTY OF JOHNSTON

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR EMERSON FIELDS SUBDIVISION**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR EMERSON FIELDS SUBDIVISION and ANY FUTURE SECTIONS OF EMERSON FIELDS SUBDIVISION (as may be amended or supplemented as set forth herein, "Declaration") is made this 5 day of March, 2024 by J & N DEVELOPERS, LLC, a North Carolina limited liability corporation, whose address is P.O. Box 658, Princeton, NC 27569 (the "Declarant").

WITNESSETH:

Declarant is the owner and developer of certain real estate in Johnston County, North Carolina, and more particularly described as:

BEING all of that certain property shown on that certain plat entitled "Final Map EMERSON FIELDS SUBDIVISION" recorded in Plat Book 100, Page 238 of the Johnston County Registry.

(the "Property" or "Subdivision"): and

Declarant is developing the Property known as "EMERSON FIELDS SUBDIVISION" by subdividing it into "Lots" that are to be used for residential purposes as well as common real estate and improvements that are to be owned by a homeowners association to which the Owner of a Lot must belong and pay lien-supported maintenance assessments; and

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.

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 Community as a whole. 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 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**

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.

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.

1.3 "Articles" or "Articles of Incorporation" shall mean those articles, filed with the Secretary of State of North Carolina, incorporating EMERSON FIELDS 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.

1.4 "Assessments" means Regular Assessments, Special Assessments, and Individual Assessments.

1.5 "Association" shall mean and refer to EMERSON FIELDS HOMEOWNERS ASSOCIATION, INC., a non-profit corporation, its successors and assigns.

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

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

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

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

1.10 "Constituent Documents" shall mean the Declaration, the Bylaws, the Articles of Incorporation, the Rules and Regulations and Restrictive Covenants, if any, and any other

basic documents used to create and govern the Subdivision.

1.11 "Common Areas" shall mean all the real estate (including conservation areas, storm drainage improvements, entrance signage, streets) and all landscaping and other improvements thereon) owned by the Association for the common use and enjoyment of the Owners.

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, including, but not limited to private road and parking lot resurfacing. "Common Expenses" shall also include all reserve funds or other funds established by the Association. "Common Expenses" shall be construed broadly.

1.13 "Declarant" shall mean and refer to J&N DEVELOPERS, LLC, a North Carolina limited liability corporation, its successors and assigns as a Declarant.

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.

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 (i) when Declarant no longer owns a Lot in the Subdivision; (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.

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

1.17 "Individual Assessment" means the charge established by Section 5.3 of this Declaration.

1.18 "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 19 buildable Lots, and 3 offsite septic repair lots in the Subdivision and has the right to establish additional Lots in accordance with the terms of this Declaration.

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

1.20 "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.

1.21 "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.

1.22 "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.

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

1.24 "Regular Assessment" means the charge established by Article V of this Declaration.

1.25 "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.

1.26 "Restrictions" shall mean all covenants, conditions, restrictions, easements, charges, liens and other obligations provided for in this Declaration and/or the Restrictive and Protective Covenants recorded in Book 6629 Page 905 in the Office of the Register of Deeds of Johnston County, including, without limitation, all notices, rules and regulations issued in accordance with this Declaration.

1.27 "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.

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

1.29 "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.

1.30 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

2.1 Property as shown on plat recorded in Plat Book 100, Page 238 of the Johnston County Registry 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.

2.2 If within twenty (20) years of the date of recordation of this Declaration in the office of the Register of Deeds of Johnston County, the Declarant should develop such other lands as Declarant or member of Declarant owns or may hereafter acquire contiguous to the Property, such land may be annexed by the Declarant without consent of Members; and, in doing so, Declarant may file and record such amendments to this Declaration as are necessary without the consent of Members in order to subject such additional lands to the terms of this Declaration and the jurisdiction of the Association. For purposes of determining contiguity of property, the rights-of-way of public or private roads and utilities, as well as rivers and streams, shall be deemed not to separate otherwise contiguous property. Declarant may transfer or assign this right to subject property to this Declaration, provided that the transferee or assignee is the developer of or owns at least a portion of the contiguous real property, and provided that the transfer or assignment is evidenced by a document recorded in the office of the Register of Deeds of Johnston County.

2.3 Declarant shall subject additional property to this Declaration by recording an Annexation Declaration describing the property being subjected. Such Annexation Declaration shall not require Members' consent but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon recording of such Annexation Declaration unless otherwise provided therein.

2.4 Declarant shall have the right to record new restrictions prior to Annexation of additional property and such Restrictions shall run with the land and be binding on the land described therein according to such Restrictions. This Declaration shall also apply to any Restrictions of Annexed property as if such restrictions were in place prior to this Declaration.

2.5 Any annexation of property under Section 2.2 and 2.3 shall subject that property to this declaration and shall extend the Development Period as defined in Section 1.15 and described in Section 4.5.2.

ARTICLE III PROPERTY RIGHTS IN COMMON AREAS

3.1 Owner's Easements of Enjoyment. Except as herein otherwise provided, each Owner shall have a right and easement of enjoyment in and to the Common Areas, which shall be appurtenant to and shall pass with the title to his Lot. Each Tenant shall have a non-transferable right to use and enjoy the Common Areas, if any, which right shall terminate when such person ceases to have the status of a Tenant.

3.2 Title to Common Areas. The Declarant shall convey by deed all Common Areas to the Association in fee simple absolute after the final platting of all Lots in the Subdivision. Any such conveyance shall be subject to taxes for the year of conveyance, and to restrictions, conditions, limitations and easements of record.

3.3 Use of Common Areas by Declarant. In addition to the specific rights and easements reserved herein, Declarant and its affiliates and associates shall have the same rights of use and enjoyment of the Common Areas as the Class A Members during the Development

Period, and shall have the same right to use Common Areas for promotional, sales and similar purposes until all of the Lots have been sold.

ARTICLE IV HOMEOWNERS ASSOCIATION

4.1 Homeowners Association. There has been created a North Carolina non-profit corporation, known as EMERSON FIELDS HOMEOWNERS 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.

4.2 Board of Directors and Officers. The Board of Directors, and such officers as they may elect or appoint 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.

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 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.

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.

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.

4.3.2 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.

4.6 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.

4.7 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, the Common Areas and all improvements located thereon for the common benefit of the Subdivision.

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

4.8.1 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.

4.8.2 To perform his responsibilities in such manner so as not unreasonably to disturb other persons residing within the Subdivision.

4.8.3 Not to impair the use of any easement without first obtaining the written consents of the Association and of the Owner or Owners for whose benefit such easements exists.

ARTICLE V COVENANT FOR ASSESSMENTS

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.

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 for capital improvements or for failure to comply with covenants, 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 two-thirds (2/3) 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. Notwithstanding the foregoing, Declarant shall have no 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.

5.3 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.

5.4 Date of Commencement of Assessments; Due Dates; Determination of Regular Assessments; Fine Assessments.

5.4.1 The monthly Regular Assessment provided for herein shall commence as to each Owner of a Lot, except Declarant, on the first day following the initial conveyance of the Dwelling Unit to the Owner and shall be adjusted according to the number of days remaining in the month. 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 transfers the Lot to a third party. 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. Written notice of the monthly Regular Assessment shall be sent to every Class A Member subject thereto. The Board of Directors shall establish the due dates.

5.4.2 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.

5.4.3 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 5.4.1 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.

5.4.4 Billing. The Association shall inform each Lot Owner of the amount of the total Regular Assessment due from the Owner of that particular Lot. This Regular Assessment may be paid in monthly installments or as otherwise required by the Association. The Owner of each Lot must pay his Lot's required Regular Assessment in advance on the first calendar day of each month, unless the Association otherwise directs. Payment is to be made to such person at such an address as Association determines. Special Assessments are due thirty (30) days after the bill for the Special Assessment has been mailed or otherwise sent out by Association, unless the Association otherwise directs. The Owners of the initial Lots in the Subdivision, except Declarant, shall be obligated to begin paying the Regular Assessment as of the first day of the initial conveyance of the Lot from Declarant to the Owner. If the Subdivision is expanded and additional Lots are brought into the Subdivision during a given Assessment year, those additional Lots shall begin paying the Regular Assessment on the first day of the initial conveyance of the Lot from Declarant to the Owner.

5.4.5 Common Surplus. If the Regular Assessment collected in any given year is in excess of the actual Common Expenses for that year, the Board may, at its sole discretion (a) return each Owner's share of the Common Surplus; (b) credit each Owner's share of the Common Surplus to each Owner's payment as for the Regular Assessment for the following year; or (c) apply the Common Surplus to the reserve.

5.4.6 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.

5.4.7 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.

5.4.8 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 ten percent (10%) 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 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.

5.4.9 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.

5.4.10 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.

5.5 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 delinquent Assessments, along with interest, late charges, costs and reasonable attorneys fees shall be a lien against the Lot in accordance with Section 5.4.8 and Section 5.4.9 herein.

5.6 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 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.

5.7 Miscellaneous.

5.7.1 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.

5.7.2 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.

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

5.7.4 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.

5.7.5 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.

5.7.6 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.

ARTICLE VI EASEMENTS AND ENCUMBRANCES

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.

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.

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.

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 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 the sale of Dwelling Units in the Subdivision.

6.5 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.

6.6 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.

6.7 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 **ASSOCIATION**

7.1 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.

7.2 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.

ARTICLE VIII
HARMONY, ENVIRONMENTAL CONTROLS

8.1 Architectural Control Committee. Except for original construction performed by or on behalf of Declarant or as otherwise in these covenants provided, no building, fence, electric pet fence, sidewalk, drive, mailbox, or other structure, or improvement or anything attached thereto visible from the outside of the structure or improvement (including, without limitation, storm doors, windows, drapes or window coverings) shall be erected, placed, altered, or maintained within the Subdivision nor shall any exterior addition to or change (including any change in color) or alteration therein be made until the proposed building plans, specifications, exterior color and finish, plot plans (showing the proposed location of such building or structure, drives and parking areas), general contractor and all subcontractors, and construction schedule shall have been submitted to and approved in writing by the Board of Directors of the Association, or by any architectural control committee appointed by said Board of Directors. Refusal of approval of plans, location or specification by said Board of Directors or architectural control committee may be based upon any reasonable ground, including, without limitation, lack of harmony of external design, color, location or relation to surrounding structures and topography and purely aesthetic considerations which, in the discretion of said Board of Directors or architectural control committee shall deem sufficient. After approval by the Board of Directors or architectural control committee is given, no alterations may be made in such plans except by and with their prior written consent. One copy of all plans, specifications and related data shall be furnished the Board of Directors or architectural control committee for its records.

ARTICLE IX
ENFORCEMENT

9.1 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.

9.2 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.

9.3 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.

9.4 Restrictions to Run With the 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.

9.5 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 seventy-five percent (75%) of all of the votes in the Association. 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).

9.6 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.

9.7 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.


9.8 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.

9.9 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.

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

**J&N Developers, LLC, a
North Carolina Limited Liability Company**

By: 
Stacy G. Johnson,

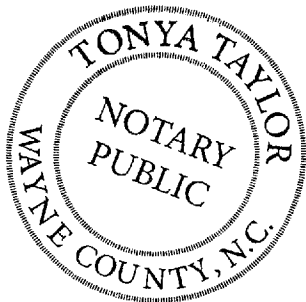
President of Johnson Construction Company, Inc.,
Member/Manager of J&N Developers, LLC,
a North Carolina Limited Liability Company

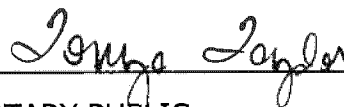
North Carolina

Wayne County

I, Tonya Taylor, a Notary Public for said County and State, do hereby certify that Stacy G. Johnson personally came before me this day and acknowledged that he is President of Johnson Construction Company, Inc., Member/Manager of J&N Developers, LLC, a North Carolina Limited Liability Company and further acknowledged the due execution of the foregoing instrument on behalf of the Limited Liability Company.

Witness my hand and seal, this the 5 day of March, 2024.




NOTARY PUBLIC

Tonya Taylor
Printed Name of Notary

My Commission Expires: 3/1/2026