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STATE OF NORTH CAROLINA  
 COUNTY OF BRUNSWICK

**DECLARATION OF COVENANTS  
 CONDITIONS AND RESTRICTIONS  
 FOR RIVER TIDE FARMS**

This Declaration, made as of April 24, 2024, by TRIPLE J DEVELOPERS, LLC, a North Carolina limited liability company, hereinafter referred to as "Declarant" or "Developer", for the purposes hereinafter stated.

WITNESSETH:

Declarant is the owner of certain real property in Brunswick County, North Carolina, known as RIVER TIDE FARMS, which is shown on a plat recorded in the Office of the Register of Deeds of Brunswick County, North Carolina, in **Map Book 156 Page 30-31**, to which reference is made for a more particular description (the "Property").

NOW, THEREFORE, Declarant declares that the Property described above shall be held and conveyed subject to the North Carolina Planned Community Act set forth in Chapter 47F of the North Carolina General Statutes (the "Act"), as well as the following easements, restrictions, covenants, and conditions.

ARTICLE I.

DEFINITIONS

In addition to other terms defined herein, the following capitalized terms shall have the following meanings as used herein:

SECTION 1. Additional Property shall mean and refer to any lands, in addition to the above-described Property, annexed to and made a part of the Planned Community (hereinafter defined), whether such lands are now owned or hereafter acquired by Declarant or others, and whether developed by Declarant or others.

SECTION 2. Allocated Interest shall mean the Common Expense Liability and votes in the Association allocated to each Lot.



SECTION 3. Association shall mean River Tide Farms Homeowners' Association, Inc., a North Carolina non-profit corporation, its successors and assigns, the Owners association organized pursuant to the Act for the purposes set forth herein.

SECTION 4. Builder shall mean a Person purchasing one or more vacant Lots from Declarant for the purpose of constructing a home for resale and not for use by such Person or any principal, director, shareholder, officer, member, manager, or partner of such Builder or a family member of any principal, director, shareholder, officer, member, manager, or partner of such Builder.

SECTION 5. Common Elements shall mean all lands and easements within or appurtenant to the Planned Community owned or enjoyed by the Association, other than a Lot, and intended for the common use and enjoyment of the Owners, including, without limitation, any private roads, sidewalks, landscaping not located on a Lot, privacy fences not owned by any Lot owner, and storm water retention ponds within the Planned Community. Common Elements shall also include any areas designated on any recorded plats for the Planned Community as "Open Space", "Common Area", "Common Element", "Recreation Area", "Amenity Area", "Buffer", Park Land, Private R/W, Swimming Pool/Bath-House or other similar designation.

SECTION 6. Common Expenses means expenditures made by, or financial liabilities of the Association, together with any allocations to reserves.

SECTION 7. Common Expense Liability means the liability for Common Expenses allocated to each Lot as permitted by the Act, this Declaration or otherwise.

SECTION 8. Declarant shall be used interchangeably with Developer (which designations shall include singular, plural, masculine and neuter as required by the context) and shall mean Triple J Developers, LLC, its successors and assigns, if such successors or assigns should acquire undeveloped property from the Declarant or a Lot not previously disposed of for the purpose of development and reserves or succeeds to any Special Declarant Right.

SECTION 9. Declarant Control Period shall have the meaning hereinafter set forth.

SECTION 10. Declaration shall mean this instrument as it may be from time to time amended or supplemented.

SECTION 11. Executive Board or Board shall be used interchangeably with the Board of Directors and means the body, regardless of name, designated in this Declaration or otherwise to act on behalf of the Association.

SECTION 12. Limited Common Elements shall mean areas and facilities within any Lot which are for the exclusive use of the Lot Owner but which the Association is obligated to maintain pursuant to the terms of this Declaration.

SECTION 13. Lot(s) shall mean and refer to any portion of the Planned Community designated for separate ownership by a Lot Owner.

SECTION 14. Lot Owner or Owner shall mean the Declarant or other Person who owns a fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 15. Master Association means a master association as defined in the Act.

SECTION 16. Person means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision, or agency or other legal or commercial entity.

SECTION 17. Planned Community shall mean and refer to the Property plus any Additional Property made a part of the Planned Community.

SECTION 18. Purchaser means any Person, other than the Declarant or a Person in the business of selling real estate for the purchaser's own account, who by means of a voluntary transfer acquires a legal or equitable interest in a Lot, other than (i) a leasehold interest (including renewal options) of less than 20 years, or (ii) as security for an obligation.

SECTION 19. Reasonable Attorneys' Fees means attorneys' fees reasonably incurred without regard to any limitations on attorneys' fees which otherwise may be allowed by law.

SECTION 20. Special Declarant Rights means rights reserved for the benefit of the Declarant including without limitation the right (i) to complete improvements intended or planned by Developer for the Property or Additional Property; (ii) to exercise any development right defined in the Act or other right reserved to the Declarant by this Declaration or otherwise; (iii) to maintain within the Planned Community sales offices, management offices, construction offices/trailers, signs advertising the Planned Community, and models; (iv) to use the Common Elements for the purpose of making improvements within the Planned Community; (v) to make the Planned Community part of a larger planned community or group of planned communities; (vi) to make the Planned Community subject to a Master Association; (vii) to appoint or remove any officer or Executive Board member of the Association or any Master Association during the Declarant Control Period or (viii) to permit other land to be annexed to and made part of the Planned Community in accordance with the terms of this Declaration.

SECTION 21. Stormwater Permit shall mean State Stormwater Permit # SW8 220717 issued by the North Carolina Division of Energy, Minerals and Land Resources.

ARTICLE II.

PROPERTY RIGHTS AND EASEMENTS

SECTION 1. Owners' Property Rights and Easement of Enjoyment. Every Owner is hereby granted a right and easement of enjoyment in and to the Common Elements, if any, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The Association may make and amend reasonable rules and regulations governing use of the Common Elements by the Owners.

(b) The Association may grant a security interest in or convey the Common Elements, or dedicate or transfer all or part of the Common Elements, to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by at least eighty percent (80%) of the Members, excluding the Developer; provided, however, that the Association may without the consent of the Owners grant easements, leases, licenses and concessions through or over the Common Elements. No conveyance or encumbrance of Common Elements shall deprive any Lot of its rights of access or support.

SECTION 2. Easements in Favor of Declarant and the Association. The following easements are reserved to Declarant and the Association, their agents, contractors, employees, successors and assigns:

(a) easements over all private streets, if any, access easements, and Common Elements within the Planned Community as necessary to provide access, ingress and egress to any Additional Property and for the installation of utilities to serve any Additional Property.

(b) an easement of unobstructed access over, on, upon, through and across each Lot and the Limited Common Elements located thereon, if any, at all reasonable times to perform any maintenance and repair to the Limited Common Elements or utilities required by this Declaration.

(c) a Fence Maintenance Easement over the rear 10' of certain Lots as shown on the recorded plats for the Property and Additional Property.

SECTION 3. Other Easements. The following additional easements are granted by Declarant:

(a) an easement to all police, fire protection, ambulance and all similar persons,



companies or agencies performing emergency services, to enter upon all Lots and Common Elements in the performance of their duties.

(b) in case of any emergency originating in or threatening any Lot or Common Elements, regardless of whether any Lot Owner is present at the time of such emergency, the Association or any other person authorized by it, shall have the immediate right to enter any Lot for the purpose of remedying or abating the causes of such emergency and making any other necessary repairs not performed by the Lot Owners.

(c) the Association is granted an easement over each Lot for the purposes of providing Lot maintenance when an Owner fails to provide maintenance and upkeep in accordance with this Declaration.

SECTION 4. Nature of Easements. All easements and rights described herein are perpetual easements appurtenant, running with the land, and shall inure to the benefit of and be binding on the Declarant and the Association, their successors and assigns, and any Owner, purchaser, mortgagee and other person having an interest in the Planned Community, or any part or portion thereof, regardless of whether or not reference is made in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Declaration.

### ARTICLE III.

#### HOMEOWNERS' ASSOCIATION

SECTION 1. Formation of Association. The Association shall be incorporated no later than the date the first Lot in the Planned Community is conveyed. The Association is a nonprofit corporation organized pursuant to the Nonprofit Corporation Act of the State of North Carolina for the purpose of establishing an association for the Owners of Lots to operate and maintain the Common Elements and any Limited Common Elements in accordance with this Declaration, its Charter and Bylaws. The Association shall be empowered to perform and/or exercise those powers set forth in the Act as it may be amended from time to time, in addition to any powers and authority otherwise granted to it.

SECTION 2. Membership. Every Lot Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from Lot ownership.

SECTION 3. Voting Rights. The Association shall have two classes of voting Membership.

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

Class B. The Declarant shall be a Class B Member and shall be entitled to three (3) votes for each Lot owned. The Class B Membership shall cease and be converted to Class A Membership on the happening of any of the following events, whichever occurs earlier:

(a) when the total vote outstanding in the Class A Membership equals the total vote outstanding in the Class B Membership; or

(b) on December 31, 2034; or

(c) upon the voluntary surrender of all Class B Membership by the holder thereof.

The period during which there is Class B Membership is sometimes referred to herein as the "Declarant Control Period". During the Declarant Control Period, the Declarant shall have the right from time to time to select, remove and replace the persons serving on the Executive Board of the Association.

**SECTION 4. Government Permits and Agreements.** After completion of construction of any facilities of the Planned Community required to be constructed by Declarant pursuant to applicable permits, agreements and easements, all duties, obligations, rights and privileges of the Declarant under any water, sewer, stormwater and utility agreements, easements and permits for the Planned Community with municipal or governmental agencies or public or private utility companies, including but not limited to the Operation and Maintenance Agreement for a wet pond(s) recorded in **Book 5148, Page 195** of the Brunswick County Registry, and Water and Sewer Indemnity Agreements with the County of Brunswick, shall be the duties, rights, obligations, privileges and the responsibility of the Association, notwithstanding that such agreements, easements or permits have not been assigned or the responsibilities thereunder specifically assumed by the Association. There are additional provisions made in this Declaration concerning stormwater facilities and the Stormwater Permit.

**SECTION 5. Common Elements.** The Association shall at its sole cost and expense be responsible for the operation and maintenance of each Common Element within the Planned Community from the date of completion of its construction or



improvement by the Developer, whether or not (i) such Common Element has actually been deeded to the Association, or (ii) any permit issued by a governmental agency to Declarant for the construction and operation of the Common Element has been transferred from the Declarant to the Association or assumed by the Association. If the Declarant is required by any government agency to provide any operation or maintenance activities to a Common Element for which the Association is liable to perform such operation and maintenance pursuant to this section, then the Association agrees to reimburse the Declarant the cost of such operation and maintenance within 30 days after Declarant renders a bill to the Association. The Association agrees to levy a Special Assessment within 30 days of receipt of such bill to cover the amount thereof if it does not have sufficient funds available. Declarant shall be entitled to specific performance to require the Association to levy and collect such Special Assessment.

SECTION 6. Insurance. The Executive Board on behalf of the Association, as a Common Expense, may keep the Common Elements and other assets of the Association, if any, insured against loss or damage by fire or other hazards and such other risks, including public liability insurance, upon such terms and for such amounts as may be reasonably necessary to protect such property, which insurance shall be payable in case of loss to the Association for all Members. The Association shall have the sole authority to deal with the insurer in the settlement of claims. In no event shall the insurance coverage obtained by the Association be brought into contribution with insurance purchased by Members or their mortgagees. At a minimum, the Executive Board shall maintain any insurance coverage required by the Act.

SECTION 7. Architectural Control Committee. The Executive Board shall perform all duties of the Architectural Control Committee if no such committee is appointed by it, subject, however, to the Special Declarant Rights. Any Architectural Control Committee appointed by the Executive Board shall consist of at least 3 members.

ARTICLE IV.

COVENANTS FOR ASSESSMENTS

SECTION 1. Creation of the Lien and Personal Obligation of Assessments. Each Lot Owner covenants and agrees to pay to the Association the following assessments (collectively the "Assessments"):

- A. Annual Assessments;
- B. Special Assessments;
- C. Insurance Assessments;
- D. Ad Valorem Tax Assessments; and

**E. Working Capital Assessments.**

The Assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the respective Lot against which the Assessments are made. Each such Assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

**SECTION 2. Purpose of Annual Assessments.** The Annual Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and residents of the Planned Community and for the maintenance, repair, improvement and replacement of the Common Elements and any Limited Common Elements. The funds arising from said assessments or charges, may be used for any or all of the following purposes: Operations, maintenance and improvement of the Common Elements, and any Limited Common Elements, including payment of utilities; enforcing this Declaration; paying taxes, insurance premiums, legal and accounting fees and governmental charges; establishing working capital; paying dues and assessments to any organization or Master Association or other association of which the Association is a member; and in addition, doing any other things necessary or desirable as determined by the Executive Board to keep the Common Elements and Limited Common Elements in good operating order and repair.

**SECTION 3. Annual Assessments.** The Executive Board shall adopt a proposed annual budget at least 90 days before the beginning of each fiscal year of the Association. Within 30 days after adoption of the proposed budget for the Planned Community, the Executive Board shall provide to all Lot Owners a summary of the budget and notice of a meeting to consider its ratification, including a statement that the budget may be ratified without a quorum. The budget is ratified unless at the meeting a majority of the Lot Owners rejects the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the Lot Owners shall be continued until such time as the Lot Owners ratify a subsequent budget proposed by the Executive Board. The Annual Assessment for each Lot shall be established based on the annual budget thus adopted; provided, however, that the first Annual Assessment shall be set by the Declarant prior to the conveyance of the first Lot to a Owner. The date in each Fiscal Year upon which the Annual Assessment shall become due and payable shall be established by the Executive Board. The Executive Board may permit the Assessments to be paid in periodic installments. The Association shall, upon demand, and for a reasonable charge furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid.

**SECTION 4. Special Assessments.** In addition to the Annual Assessments authorized above, the Association may levy, in any assessment year, a Special



Assessment applicable to the year only for the following purposes:

A. To defray, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Elements and any Limited Common Elements, including fixtures and personal property related thereto, provided that any such Special Assessment shall have the assent of two-thirds (2/3) of the Members of each class who are voting in person or by proxy at a meeting duly called for this purpose. Written notice of any meeting of Owners called for the purpose of approving such Special Assessment shall be sent to all Members not less than ten (10) days nor more than sixty (60) days in advance of the meeting.

B. Without a vote of the Members, to provide funds to reimburse the Declarant as provided for in Article III, Section 5, hereof.

SECTION 5. Insurance Assessments. All premiums on insurance policies purchased by the Executive Board or its designee and any deductibles payable by the Association upon loss shall be a Common Expense, and the Association may at any time levy against the Owners equally an "Insurance Assessment", in addition to the Annual Assessments, which shall be in an amount sufficient to pay the cost of all such deductibles and insurance premiums not included as a component of the Annual Assessment.

SECTION 6. Ad Valorem Tax Assessments. All ad valorem taxes levied against the Common Elements, if any, shall be a common expense, and the Association may at any time of year levy against the Owners equally an "Ad Valorem Tax Assessment", in addition to the Annual Assessments, which shall be in an amount sufficient to pay ad valorem taxes not included as a component of the Annual Assessment.

SECTION 7. Working Capital Assessments. At the time title to a Lot is conveyed to an Owner by Declarant, the Owner shall pay the sum of \$ \$250.00 to the Association as working capital to be used for operating and capital expenses of the Association. Such amounts paid for working capital are not to be considered as advance payment of the Annual or any other Assessments.

SECTION 8. Rate of Assessment. The Association may differentiate in the amount of Assessments charged when a reasonable basis for distinction exists, such as between vacant Lots of record and Lots of record with completed dwellings for which certificates of occupancy have been issued by the appropriate governmental authority, or when any other substantial difference as a ground of distinction exists between Lots. however, Assessments must be fixed at a uniform rate for all Lots similarly situated.

SECTION 9. Commencement of Assessments. Assessments for each Lot shall commence upon the date of acceptance by an Owner of a deed from Declarant.



SECTION 10. Effect of Nonpayment of Assessments and Remedies of The Association. Any Assessment or installment thereof not paid within thirty (30) days after the due date shall bear interest from the due date at the highest rate allowable by law. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Owner's Lot. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Elements or abandonment of his Lot. All unpaid installment payments of Assessments shall become immediately due and payable if an Owner fails to pay any installment within the time permitted. The Association may also establish and collect late fees for delinquent installments.

SECTION 11. Lien for Assessments. The Association may file a lien against a Lot when any Assessment levied against said Lot remains unpaid for a period of 30 days or longer.

(a) The lien shall constitute a lien against the Lot when and after the claim of lien is filed of record in the office of the Clerk of Superior Court of the county in which the Lot is located. The Association may foreclose the claim of lien in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the General Statutes. Fees, charges, late charges, fines, interest, and other charges imposed pursuant to Sections 47F-3-102, 47F-3-107, 47F-3-107.1 and 47F-3-115 of the Act are enforceable as Assessments.

(b) The lien under this section shall be prior to all liens and encumbrances on a Lot except (i) liens and encumbrances (specifically including, but not limited to, a mortgage or deed of trust on the Lot) recorded before the docketing of the claim of lien in the office of the Clerk of Superior Court, and (ii) liens for real estate taxes and other governmental assessments and charges against the Lot.

(c) The lien for unpaid assessments is extinguished unless proceedings to enforce the tax lien are instituted within three years after the docketing of the claim of lien in the office of the Clerk of Superior Court.

(d) Any judgment, decree, or order in any action brought under this section shall include costs and reasonable attorneys' fees for the prevailing party.

(e) Where the holder of a first mortgage or deed of trust of record, or other purchaser of a Lot obtains title to the Lot through foreclosure of a first mortgage or first deed of trust, such purchaser and its heirs, successors and assigns shall not be liable for the Assessments against the Lot which became due prior to the acquisition of title to the Lot by such purchaser. The unpaid Assessments shall be deemed to be Common Expenses collectible from the Lot Owners including such purchaser, its heirs, successors or assigns.

(f) A claim of lien shall set forth the name and address of the Association, the

name of the record Owner of the Lot at the time the claim of lien is filed, a description of the Lot, the amount of the lien claimed, and other necessary or desirable information.

**SECTION 12. Declarant's Obligations for Assessments; Grace Period for Builders.**

A. Declarant shall not pay Assessments during the Declarant Control Period.

B. Any Builder who purchases property subject to this Declaration directly from Declarant shall not be required to pay assessments or working capital fees relative to such property acquired from Declarant for a period beginning on the date such property is acquired from Declarant (each, an "Acquisition Date") and ending on the date that is two (2) years after the Acquisition Date; provided, however, in the event any portion(s) of such property are subsequently conveyed by a Builder to any other party prior to end of the two (2) years following the Acquisition Date, then the grace period described in this section shall automatically and immediately terminate as to any portion(s) of the property conveyed by the Builder as of the date of such conveyance, and the grantee of such conveyance shall thenceforth be subject to all assessments and fees under this Article V.

**ARTICLE V**

**RIGHTS OF DEVELOPER**

There is hereby reserved to the Declarant the Special Declarant Rights as herein defined and the following rights, powers and privileges which shall be in addition to the Special Declarant Rights and any other rights, powers and privileges reserved to the Declarant herein:

**SECTION 1. The Architectural Control Committee/Executive Board.** All duties and responsibilities conferred upon the Architectural Control Committee by this Declaration or the Bylaws of the Association shall be exercised and performed by the Declarant or its designee, so long as Declarant shall own any Lot within the Property or any Additional Property.

**SECTION 2. Plan of Planned Community.** The right to change, alter or re-designate the allocated planned, platted, or recorded use or designation of any of the lands constituting the Planned Community including, but not limited to, the right to change, alter or re-designate road, utility and drainage facilities and easements and to change, alter or re-designate such other present and proposed amenities, Common Elements, or facilities as may in the sole judgment and discretion of Declarant be necessary or desirable. The Declarant hereby expressly reserves unto itself, its successors and assigns, the right to re-plat any one (1) or more Lots shown on the plat of any subdivision of the Property or Additional Property in order to create one or more



modified Lots; to further subdivide tracts or Lots shown on any such subdivision plat into two or more Lots; to recombine one or more tracts or Lots or a tract and Lots to create a larger tract of land or Lot (any Lot resulting from such recombination shall be treated as one Lot for purposes of Assessments); to eliminate from this Declaration or any plats of the Planned Community Lots that are not otherwise buildable or are needed or desired by Declarant for access or are needed or desired by Declarant for use as public or private roads or access areas, whether serving the Planned Community or other property owned by the Declarant or others, or which are needed for the installation of utilities, Common Elements or amenities, and to take such steps as are reasonably necessary to make such re-platted Lots or tracts suitable and fit as a building site, access area, roadway or Common Elements. The Declarant need not develop, or develop in any particular manner, any lands now owned or hereafter acquired by the Declarant, including any lands shown on survey plats of the Planned Community as "Future Development". Any such lands shall not be subject to this Declaration unless Declarant expressly subjects them hereto by filing of a supplemental declaration in the Register of Deeds office of the county where the Planned Community is located. Declarant is required by government permit to state herein the maximum allowed built-upon area for all lots which Declarant has planned to develop within the Planned Community. By listing the maximum built-upon area herein for all such lots, Declarant does not obligate itself to develop in any particular manner or for any particular uses any lands now owned or hereinafter acquired by Declarant which are not shown on the recorded plats referenced herein.

SECTION 3. Amendment of Declaration by the Declarant. This Declaration may be amended without Member approval by the Declarant, or the Board of the Association, as follows:

- A. In any respect, prior to the sale of the first Lot.
- B. To the extent this Declaration applies to Additional Property.
- C. To correct any obvious error or inconsistency in drafting, typing or reproduction.
- D. To qualify the Association or the Property and Additional Property, or any portion thereof, for tax-exempt status.
- E. To incorporate or reflect any mapping change as permitted by this Article or otherwise permitted herein.
- F. To conform this Declaration to the requirements of any law or governmental agency having legal jurisdiction over the Property or any Additional Property or to qualify the Property or any Additional Property or any Lots and improvements thereon for mortgage or improvement loans made, insured or guaranteed by a governmental agency or to comply with the requirements of law or regulations of



any corporation or agency belonging to, sponsored by, or under the substantial control of the United States Government or the State of North Carolina, regarding purchase or sale of such Lots and improvements, or mortgage interests therein, as well as any other law or regulation relating to the control of property, including, without limitation, ecological controls, construction standards, aesthetics, and matters affecting the public health, safety and general welfare. A letter from an official of any such corporation or agency requesting or suggesting an amendment necessary to comply with the requirements of such corporation or agency shall be sufficient evidence of the approval of such corporation or agency, provided that the changes made substantially conform to such request or suggestion. The Declarant may at any time amend this Declaration to change the maximum allowable built-upon area as permitted by the NC Division of Energy, Mineral and Land Resources. Notwithstanding anything else herein to the contrary, only the Declarant, during the Declarant Control Period, shall be entitled to amend this Declaration pursuant to this Section.

SECTION 4. Annexation of Additional Property. Declarant may annex to and make a part of the Planned Community any other real property, whether now owned or hereafter acquired by Declarant or others, and whether developed by the Declarant or others (the "Additional Property"). Annexation of Additional Property to the Planned Community shall require the assent of 67 percent of the Class A Members who are voting in person or by proxy at a meeting called for this purpose; provided, however, Additional Property may be annexed to the Planned Community without the assent of the Members so long as the Additional Property is used for residential purposes, roads, utilities, drainage facilities, amenities, and other facilities not inconsistent with residential developments

ARTICLE VI.

USE RESTRICTIONS, ARCHITECTURAL CONTROL  
 AND MAINTENANCE

SECTION 1. Approval of Plans for Building and Site Improvements. No dwelling, wall or other structure shall be commenced, erected, or maintained upon any Lot, nor shall any exterior addition to or change in or alteration therein (including painting or repainting of exterior surfaces) be made until the plans and specifications showing the nature, kind, shape, heights, materials, colors and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Control Committee. If the Architectural Control Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and full compliance with this Article will be deemed to have occurred. Refusal or approval of any such plans, location or specification may be based upon any ground, including purely aesthetic and environmental considerations, that in the sole and uncontrolled discretion of the Architectural Control Committee shall be deemed sufficient. One copy

of all plans and related data shall be furnished to the Architectural Control Committee for its records. The Architectural Control Committee shall not be responsible for any structural or other defects in plans and specifications submitted to it or in any structure erected according to such plans and specifications.

**SECTION 2. Minimum Standards for Site Improvements.**

A. Each dwelling shall have a minimum of 1,200 square feet of enclosed, heated dwelling area; provided, however, the Architectural Control Committee may permit a dwelling to have a minimum of 1,100 square feet if the Committee in its sole discretion finds that the variance will not adversely impact property values within the Planned Community. The term "enclosed, heated dwelling area" shall mean the total enclosed area within a dwelling which is heated by a common heating system; provided, however, that such term does not include garages, terraces, decks, open/screened porches, and like areas.

B. Since the establishment of inflexible building setback lines for location of houses on Lots tends to force construction of houses directly to the side of other homes with detrimental effects on privacy, view, preservation of important trees and other vegetation, ecological and related considerations, no specific setback lines shall be established by this Declaration. In order to assure, however, that the foregoing considerations are given maximum effect, the site and location of any house or dwelling or other structure upon any Lot shall be controlled by and must be approved absolutely by the Architectural Control Committee; provided, however, that no structure shall be constructed closer to a Lot line than is permitted by applicable governmental regulations.

C. The exterior of all dwellings and other structures must be completed within twelve (12) months after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the Owner or builder, due to strikes, fires, national emergency, natural calamities, or the complexity of design and construction.

D. All service utilities, fuel tanks, and wood piles are to be enclosed within a wall or plant screen of a type and size approved by the Architectural Control Committee, to preclude the same from causing an unsightly view from any highway, street or way within the subdivision, or from any other residence within the subdivision. All mail and newspaper boxes shall be uniform in design. Design of mail and newspaper boxes shall be furnished by the Architectural Control Committee. Fences shall be permitted on any Lot; provided, however, that the design, placement, and materials of any fence are approved by the Architectural Control Committee. Clotheslines are not permitted on any Lot.

E. Off street parking for not less than two (2) passenger automobiles must be provided on each Lot prior to the occupancy of any dwelling constructed on the Lot.

Parking areas and the driveways thereto shall be constructed of concrete, brick, asphalt, or turf stone, or any other material approved by the Architectural Control Committee.

F. All light bulbs or other lights installed in any fixture located on the exterior of any building or any Lot for the purpose of illumination shall be clear, white or non-frost lights or bulbs.

### SECTION 3. Use Restrictions.

A. Land Use and Building Type. No Lot shall be used for any purpose except for residential purposes, subject, however, to the rights of the Declarant contained herein. All numbered Lots are restricted for construction of one single family dwelling (plus, a detached garage, if there is not one attached to the residence, and such other accessory buildings as may be approved by the Architectural Control Committee)

B. Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. There shall not be maintained any plants or animals, nor device or thing of any sort whose normal activities or existence are in any way noxious, dangerous, unsightly, unpleasant or of any other nature as may diminish or destroy the enjoyment of other Lots by the occupants thereof. It shall be the responsibility of each Owner to prevent the development of any unclean, unsightly or unkept condition of buildings or grounds on the Owner's Lot which would tend to decrease the beauty of the neighborhood.

C. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot as a residence either temporarily or permanently without the written consent of the Architectural Control Committee.

D. Vehicles/Boats. No boat, personal watercraft, camper, trailer, motor or mobile homes, tractor/trailer, construction equipment or similar type vehicle/equipment, shall be permitted to remain on any Lot or on any street at any time, without the written consent of the Association. No inoperable vehicle or vehicle without current registration and insurance will be permitted on any Lot, street or Common Element. All lawn maintenance equipment shall be stored, when not in use, in a method so as not to be visible from the street. The Association shall have the right to have such vehicles, boats or equipment towed away at the owner's expense. No repairs to any vehicle may be made on streets or in driveways but only in garages or other areas not visible from the street.

E. Animals. No animals, livestock or poultry of any kind shall be kept or maintained on any Lot or in any dwelling except that domesticated dogs, domesticated cats or other household pets may be kept or maintained provided that they are not kept

or maintained for commercial purposes and provided further that they are not allowed to run free, are at all times kept properly leashed or under the control of their owner and do not become a nuisance.

F. Statuary, TV Satellite Dishes and Outside Antennas. No yard statuary or TV satellite signal receiving dishes are permitted on any Lot and no outside radio or television antennas shall be erected on any Lot or dwelling unit unless and until permission for the same has been granted by the Architectural Control Committee; provided, however, satellite dishes not over 18" in diameter which cannot be seen from the street are permitted.

G. Construction in Common Elements. No Person shall undertake, cause, or allow any alteration or construction in or upon any portion of the Common Elements except at the direction or with the express written consent of the Association.

H. Signs. No signs (including "for sale" or "for rent" signs) shall be permitted on any Lot or in the Common Elements without permission of the Executive Board; provided, however, the Declarant may, so long as Declarant owns any Lot, maintain for sale signs on Declarant's Lots and maintain signs on the Common Elements advertising the Planned Community and provided further, a Builder may maintain one for sale sign on the Builder's Lot.

I. Subdividing. Subject to any rights reserved to the Declarant herein, no Lot shall be subdivided, or its boundary lines changed except with the prior written consent of the Declarant during the Declarant Control Period and thereafter by the Executive Board.

J. Street Parking Prohibited. Parking on any private streets within the Planned Community is prohibited.

SECTION 4. Maintenance. Each Lot Owner shall keep his Lot free from weeds, underbrush or refuse piles, or unsightly growth or objects. All structures shall be kept neat and in good condition. All shrubs, trees, grass and other plantings shall be kept neatly trimmed and properly cultivated. In the event that any maintenance activities are necessitated to any Common or Limited Common Element by the willful act or active or passive negligence of any Owner, his family, guests, invitees or tenants, and the cost of such maintenance, repair or other activity is not fully covered by insurance, then, at the sole discretion of the Executive Board, the cost of the same shall be the personal obligation of the Owner and if not paid to the Association upon demand, may be added to and become a part of the Annual Assessment levied against said Owner's Lot.

## ARTICLE VII

### STORMWATER PERMIT/FACILITIES



**SECTION 1. Conveyance of Stormwater Facilities.** Conveyance of stormwater facilities within the Planned Community to the Association may be made subject to perpetual drainage easements in favor of the owners of any land constituting "permitted drainage areas" within the meaning of the Stormwater Permit, provided, however, that the documents creating such drainage easements require the easement holder to pay its pro-rata share of the cost of operating and maintaining the stormwater facilities.

**SECTION 2. Stormwater Permit.** The Stormwater Permit shall be transferred to the Association in accordance with applicable North Carolina General Statutes and the provisions of the Permit.

**SECTION 3. Government Mandated Restrictions.** The following restrictions are required by the Stormwater Permit:

A. The following covenants are intended to ensure ongoing compliance with State Stormwater Management Permit Number SW8 220717, as issued by the Division of Energy, Mineral and Land Resources (the "Division") under 15A NCAC 02H.1000, effective January 1, 2017.

B. The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the Stormwater Management Permit.

C. These covenants are to run with the land and be binding on all persons and parties claiming under them.

D. The covenants pertaining to stormwater may not be altered or rescinded without the express written consent of the Division.

E. Alteration of the drainage as shown on the approved plans may not take place without the concurrence of the Division.

F. The maximum built-upon area (BUA) per lot is (i) 2,600 square feet for Lots 1-5: 11-35; 79-90, 111-1147 & 149-155 and (ii) 3,500 square feet for Lots 6-10; 36-78 & 91-110. This allotted amount includes any BUA constructed within the lot property boundaries, and that portion of the right-of-way between the front lot line and the edge of the pavement not shown on the approved plans. BUA has the same meaning as G.S. 143-214.7 as amended.

G. All runoff from the BUA on the lot must drain into the permitted system. This may be accomplished via grading, a stormwater collection system and/or a vegetated conveyance.

H. The maximum allowable BUA shall not be exceeded on any Lot until the Permit is modified to ensure compliance with the stormwater rules, permit, and the approved plans and specifications.



I. A 50-foot wide vegetative setback must be provided and maintained adjacent to all surface waters in accordance with 15A NCAC 02H.1003(4) and the approved plans.

J. Any individual or entity found to be in noncompliance with the provisions of a stormwater management permit or the requirements of the stormwater rules is subject to enforcement procedures as set forth in NCGS 143, Article 21.

K. For Lots within the CAMA Area of Environmental Concern, where DCM calculates a different maximum lot BUA, the governing maximum lot BUA shall be the more restrictive of the two amounts.

ARTICLE VIII

LOTS SUBJECT TO DECLARATION/ENFORCEMENT

SECTION 1. Lots Subject to Declaration. The covenants and restrictions contained in this Declaration are for the purpose of protecting the value and desirability of the Planned Community and the Lots. All present and future Owners, tenants and occupants of Lots and their guests or invitees, shall be subject to, and shall comply with the provisions of the Declaration, and as the Declaration may be amended from time to time. The acceptance of a deed of conveyance or the entering into of a lease or the entering into occupancy of any Lot shall constitute an agreement that the provisions of the Declaration are accepted and ratified by such Owner, tenant or occupant. The covenants and restrictions of this Declaration shall run with and bind the land and shall bind any person having at any time any interest or estate in any Lot, their heirs, successors and assigns, as though such provisions were made a part of each and every deed of conveyance or lease, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless terminated by the Lot Owners.

SECTION 2. Enforcement and Remedies. The covenants and restrictions of this Declaration shall inure to the benefit of and be enforceable (by proceedings at law or in equity) by the Association, or the Owner of any Lot, their respective legal representatives, heirs, successors and assigns. The Executive Board shall be entitled to enforce its Articles of Incorporation, Bylaws and Rules and Regulations. In addition to the remedies otherwise provided for herein concerning the collection of Assessments, the following remedies shall be available:

A. Association to Remedy Violation. In the event an Owner (or other occupant of a Lot) is in violation of or fails to perform any maintenance or other activities required by this Declaration, the Association's Bylaws, Charter or Rules and Regulations, the Executive Board, after 30-days notice, may enter upon the Lot and remedy the violation or perform the required maintenance or other activities, all at the expense of the Owner.

The full amount of the cost of remedying the violation or performing such maintenance or other activities shall be chargeable to the Lot, including collection costs and reasonable attorneys' fees. Such amounts shall be due and payable within 30 days after an Owner is billed. If not paid within said 30-day period, the amount thereof may immediately be added to and become a part of the Annual Assessment levied against said Owner's Lot. In the event that any maintenance activities are necessitated to any Common or Limited Common Elements by the willful act or active or passive negligence of any Owner, his family, guests, invitees or tenants, and the cost of such maintenance, repair or other activity is not fully covered by insurance, then, at the sole discretion of the Executive Board, the cost of the same shall be the personal obligation of the Owner and if not paid to the Association upon demand, may immediately be added to and become a part of the Annual Assessment levied against said Owner's Lot.

B. Fines. The Association may in accordance with the procedures set forth in the Act establish a schedule of and collect fines for the violation of this Declaration or of the Association's Articles of Incorporation, Bylaws or Rules and Regulations. If an Owner does not pay the fine when due, the fine shall immediately become a part of and be added to the Annual Assessment against the Owner's Lot and may be enforced by the Association as all other Assessments provided for herein.

C. Suspension of Services and Privileges. The Association may, in accordance with the procedures set forth in the Act, suspend all services and privileges provided by the Association to an Owner (other than rights of access to Lots) for any period during which any Assessments against the Owner's lot remain unpaid for at least 30 days or for any period that the Owner or the Owner's Lot is otherwise in violation of this Declaration or the Association's Charter, Bylaws, or Rules and Regulations.

SECTION 3. Miscellaneous. Failure by the Association or by an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The remedies provided herein are cumulative and are in addition to any other remedies provided by law.

## ARTICLE IX.

### GENERAL PROVISIONS

SECTION 2. Rights of Institutional Note Holders. Any institutional holder of a first lien on a Lot will, upon request, be entitled to (a) inspect the books and records of the Association during normal business hours, (b) receive an annual audited financial statement of the Association within ninety (90) days following the end of its fiscal year, (c) receive written notice of all meetings of the Association and right to designate a representative to attend all such meetings, (d) receive written notice of any condemnation or casualty loss that affects either a material portion of the Planned Community or the property securing its loan, (e) receive written notice of any sixty-day (60) delinquency in the payment of Assessments or charges owed by any Owner of any



property which is security for the loan, (f) receive written notice of a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association, (g) receive written notice of any proposed action that requires the content of a specified percentage of mortgage holders, and (h) be furnished with a copy of any master insurance policy.

**SECTION 3. Utility Service.** Declarant reserves the right to subject the Property to contracts for the installation of utilities, cable TV and street lighting, which may require an initial payment and/or a continuing monthly payment by the Owner of each Lot. Each Lot Owner will be required to pay for any water connections, sewer connections, impact fees or any other charges imposed by any entity furnishing water, sewer or other utility service to the Lots. In the alternative, the Developer may collect such connection, impact and other fees, and charges directly from the Lot Owners. All Lot Owners shall be required, for household purposes, to use water and sewer supplied by the companies/governmental units servicing the Planned Community. Separate water systems for outside irrigation and other outdoor uses shall not be permitted without the consent of the Architectural Control Committee.

**SECTION 4. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

**SECTION 5. Amendment of Declaration.** Except in cases of amendments that may be executed by the Declarant under this Declaration or by certain Lot Owners under Section 47F-2-118(b) of the Act, this Declaration may be amended by affirmative vote or written agreement signed by Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated, or by the Declarant if necessary for the exercise of any Special Declarant Right or development or other right reserved to the Declarant herein.

**SECTION 6. FHAVA Approval.** So long as there is Class B membership, annexation of Additional Properties, dedication of Common Elements and amendments to this Declaration must be approved by the Federal Housing Administration and/or the Department of Veterans Affairs, if either of those agencies has approved the making, insuring or guaranteeing of mortgage loans within the Planned Community.

**SECTION 7. North Carolina Planned Community Act.** It is the intent of the Declarant to comply with the requirements imposed on the Planned Community by the Act and to the extent any of the terms of this Declaration violate the Act, the terms of the Act shall control.

IN TESTIMONY WHEREOF, Declarant has caused this Declaration to be signed in its corporate name by its president pursuant to authority of Declarant's Board of Directors as of the day and year first above written.



Triple J Developers, LLC.

By: Jeffrey B. Malpass, member/manager  
Jeffrey B. Malpass, Member/Manager

STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

I, Steven L. Buie, a Notary Public, certify that Jeffrey B. Malpass personally came before me this day and acknowledged that he/she is the President of TRIPLE J DEVELOPERS, LLC, a limited liability company, and that he, as its Member/Manager, being authorized to do so, executed the foregoing on behalf of said company. Witness my hand and seal, this the 29 day of April, 2024.

Steven L. Buie  
Notary Public

My commission expires: 11-03-2025

(SEAL)

