

FOR REGISTRATION REGISTER OF DEEDS

Karen S. Hardesty

Carteret County, NC

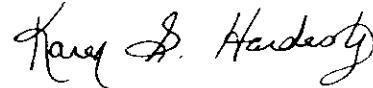
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**DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS DECLARATION, made on the date hereinafter set forth by JW LAND, LLC, hereinafter referred to as "Declarant".

WITNESSETH

WHEREAS, Declarant is the Developer/Owner of certain property in Heritage Pointe Subdivision, County of Carteret, State of North Carolina, which is more particularly described as:

**Heritage Pointe Subdivision**, 324 residential lots and 4 commercial lots PUD as set forth in the Development Agreement by and between Lawrence Land Company, Inc. and The Town of Newport, North Carolina, effective date December 17, 2015, as the same is recorded in Book 1529, Page 393, Office of the Register of Deeds of Carteret County, North Carolina.

NOW THEREFORE, Declarant hereby declares that all of the lots hereinafter described in Article I shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title of interest in the described Properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

## ARTICLE I DEFINITIONS

Section 1. "Association" shall mean and refer to Heritage Pointe of Newport HOA, Inc., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record Owner, whether one (1) or more persons or entities, of a fee simple title to any Lot which is part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 4. "Common Area" shall mean all stormwater ponds, landscape areas, and common areas as shown as "common area" on maps of Heritage Pointe, Phase One recorded in Map Book 33, Page 664, Carteret County Register of Deeds, and all common area added from time to time.

Section 5. "Lot" shall mean and refer to the lots in Heritage Pointe, Phase One as shown upon the subdivision plat recorded in Book 33, Pages 664, Office of the Register of Deeds of Carteret County, North Carolina, with the exception of the Common Area. The sixty (60) numbered lots subject to these Covenants, Conditions and Restrictions are as follows:

1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59 and 60

Section 6. "Declarant" shall mean and refer to JW LAND, LLC, its successors and assigns if such successors or assigns should acquire more than one (1) undeveloped Lot from the Declarant for the purpose of development.

## ARTICLE II PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless agreed to by two thirds (2/3) of each class of members voting on the same with a quorum present, at a duly called meeting for that purpose, and a certificate is signed by the secretary of the meeting and recorded in the Office of the Carteret County Register of Deeds indicating the approval.

(d) the right of the Association to expand or add to the Common Area and to improve, maintain and operate the Common Area.

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

Section 3. Implied Rights. The Association may exercise any other right or privilege and take any action authorized by this Declaration, the Association's Articles or Bylaws, or the North Carolina Planned Community Act (Chapter 47F of the North Carolina General Statutes), or the North Carolina Nonprofit Corporation Act (Chapter 55A), as from time to time amended, and every other right or privilege reasonably necessary to effectuate the exercise of any right or privilege or the taking of any action authorized herein or therein.

Section 4. Declarant's Reserved Rights; Association's Obligation of Cooperation. The Association shall accept conveyance of any Common Area Conveyed to it, in fee or by easement, by Declarant or, at the request of Declarant, by an owner of any property within or to be annexed into the Properties and, upon request of Declarant and without further consideration, shall execute any document necessary to evidence such acceptance.

Until such time as Declarant and Builders have completed all of the contemplated improvements and have sold all of the Lots within the Subdivision or as may be added to by the parcels described in Article VIII, Section 4:

(a) Declarant shall have the right to alter the boundaries of the Common Area, whether or not it has been previously deeded to the Association, provided that such alteration does not substantially, materially and adversely affect the function and use of the Common Area. The Association and each Owner hereby irrevocably appoints the Declarant as his/her

attorney-in-fact to execute and/or deliver any documents, plats, deeds, or other written matters necessary or convenient to accomplish the addition of Common Area or Properties, or both, to create easements as deemed necessary by "Declarant", and to adjust the boundary or boundaries of the Common Area.

(b) Neither the Association nor its Members, nor the use of the Common Area by the Association and its Members, shall interfere with or impede the completion of the improvements or the marketing and sale by the Declarant and the Builder of Lots and homes.

(c) Declarant and each Builder shall have the right to make such use of Lots and the Common Area as may facilitate completion of development and sale of Lots and Units by the Declarant and the Builder. Without limiting the foregoing, Declarant shall have the right to maintain or permit the Builder or others to maintain sales offices, model Dwellings and Units, administrative offices, and construction offices (which may be trailers or temporary or permanent buildings), or any or all of same, on Lots or the Common Area.

Section 5. Declarant's Right to Change Development. With the approval of the appropriate governmental authority, and subject only to such terms and conditions as said authority may impose, Declarant shall have the right, without consent or approval of the Owners, to create Lots and Units, add Common Area, and reallocate Lots or Units within the Properties. Declarant may convert Lot 16 or any other lot or lots or any other property subject to these restrictions to use as a roadway and road right-of-way provided the Association or a public authority will accept the roadway and road right-of-way for the purpose to maintain and repair the same as if it were a part of a public street or highway system.

### **ARTICLE III MEMBERSHIP AND VOTING RIGHTS**

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two (2) classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) 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 (1) vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant 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 either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on January 1, 2023.

#### **ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest at 8%, costs, and reasonable attorney's fees, shall be a charge on the land and shall be continuing lien upon the Property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessment. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents of the Properties and for the improvement and maintenance of the Common Area.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to any Owner, the maximum annual assessment shall be \$250.00 per Lot.

- (a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than Twenty-Five (\$25.00) Dollars above the maximum assessment for the previous year without a vote of the membership.
- (b) From and after January 1 of the year immediately following the conveyance of the first Lot to any Owner, the maximum annual assessment may be

increased above Twenty-Five (\$25.00) Dollars by a vote of two thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

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

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 that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of capital improvement upon the Common Area, stormwater ponds and spreader, including pipes and infrastructure related thereto, drainage canals and basins, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum from Any Action Authorized Under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than fifteen (15) days, nor more than sixty (60) days, in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast thirty percent (30%) or as otherwise set forth in the bylaws of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. This procedure shall continue until a quorum is reached. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessment: Due Dates. The annual assessments provided for herein shall commence as to all Lots with houses on them that have been sold or occupied on the first day of the month following the conveyance. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of

the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the date due at the rate of eight percent (8%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

## ARTICLE V ARCHITECTURAL CONTROL

No building, shed, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing by Declarant or Board of Directors of the Association during the first five years, or by the Board of Directors or an Architectural Control Committee composed of three (3) or more representatives appointed by the Board after the first five years. In the event said Board, or its designated 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 this Article will be deemed to have been fully complied with.

The members of the initial Board of Directors and Architectural Control Committee are hereby designated as: Wallace J. Conner, whose address is 204 Diamond Cove, Newport, North Carolina 28570; Jeremy C. Jackson, whose address is 8002 US Highway 70 E, New Bern, North Carolina 28562; and Marsha G. Eddy, whose address is 803-A East Main Street, Havelock, North Carolina 28532, and all of whom shall have the privilege to serve until January 1, 2025 before replacement. Jeremy C. Jackson, or his designee, shall have the right of appointing an agent or successor as a member of the Initial Architectural Control Committee to replace any position opened by a resigning member prior to January 1, 2025.

## ARTICLE VI USE RESTRICTIONS

Section 1. Lot. The "lot" as used herein shall mean the numbered parcels as depicted on the above-mentioned map.

Section 2. Building Type; Dwelling. The word "dwelling" as used herein shall mean one (1) detached building designed for use as a single-family residence. No concrete blocks on exterior walls, except decorative screen blocks, shall be used above foundation elevation unless the same are covered with brick veneer or as otherwise approved by the Architectural Control Committee.

Section 3. Land Use. Each Lot shall be used for residential purposes only. Not more than one (1) dwelling may be erected or permitted to remain on a Lot. No wrecked or junked motor vehicle or vehicle without current license plates or truck larger than one (1) ton shall be permitted to remain on a Lot or street. No activity shall be permitted on any Lot which amounts to a nuisance to the other Lot Owners or interferes with their reasonable enjoyment of their property. No Lot may be used for storage without a house being located thereon. All materials stored on a Lot and clothes lines shall be located in the rear yard and screened from view by natural vegetation or approved privacy fencing. Satellite dish shall be limited to 24" in diameter and located in the rear portion of house or lot where possible. Declarant or his designee reserves the right for a period of fifteen (15) years to conduct sales from model homes within this phase.

Section 3A. Boats, RVs and Trailers. Boats, Trailers and RVs shall be located in the rear yard and screened from view by vegetation or privacy fencing if possible. If not, a fenced in common area made available by the Heritage Pointe of Newport HOA for storage of Boats, RVs and Trailers shall be utilized rather than parking in a driveway or street. The Heritage Pointe of Newport HOA may charge a reasonable fee for the storage of cars, boats, RVs, trucks and trailers or other items permitted to be stored.

Section 4. Mobile Homes and Manufactured Housing. No mobile home, modular home, or manufactured housing may be placed or permitted to remain on a Lot. Storage sheds should be of similar material and color as the home and approved by the Declarant or by the Architectural Control Committee. Metal roofs on storage sheds painted to match the roof of the house may be allowed at the discretion of the Committee.

Section 5. Combination of Lots. One (1) Owner of two (2) or more adjoining Lots or one (1) Owner of one (1) Lot and one half (1/2) of one (1) adjoining Lot or both of the adjoining Lots, may construct a residential dwelling thereon upon and across the dividing line of such adjoining Lots, or Lot and adjoining one half (1/2) Lot or adjoining two (2) adjoining

half Lots so owned by one (1) Owner so long as such residential dwelling shall not be nearer than ten (10) feet to such Owner's side Lot line, and so long as any outbuildings shall not be nearer than ten (10) feet from such Owner's side Lot line or twenty (20) feet from the rear Lot line, but thereafter, no additional residential dwelling may be built thereon. In the event of such recombination or combination, any easements reserved along the interior Lot lines which have been recombined and deleted, shall be withdrawn and shall not constitute an encumbrance on such Lot and shall be reserved only along the perimeter boundary lines of the total Lots or portions thereof so owned by the one (1) Owner.

Section 6. Dwelling Size. Any dwelling erected upon any lot shall contain not less than 1,400 square feet of enclosed floor heated area. A variance up to three (3%) percent of the required heated square foot area may be granted from time to time by the architectural control committee in their sole discretion. Any dwelling, once started, shall be substantially completed within six (6) months.

Section 7. Setback Requirements.

(a) No dwelling shall be erected or permitted to remain on any Lot nearer to any street than the setback line as shown on the recorded plat.

(b) No dwelling or other permissible structure shall be erected or permitted to remain nearer to a sideline than as shown on the recorded plat.

(c) Hardship variances may be granted from time to time by the Declarant or by the Architectural Control Committee in their sole discretion provided The Town of Newport setback requirements are met or variance granted.

Section 8. Animals. No animals shall be permitted to remain on any Lot other than dogs, cats, or other small household pets, always in reasonable numbers, and subject to reasonable rules and regulations as may be promulgated from time to time by the Homeowner's Association. If allowed by the Town of Newport, as many as four (4) female fowl (no roosters) may be allowed upon approval by the Heritage Pointe of Newport HOA as to setbacks, privacy fencing, and fencing of coups. No Pit Bulls, vicious, or continuously barking dogs shall be allowed. Dogs shall be under the control of the owner at all times when off the owner's property. There shall be no hunting of wildlife or discharge of firearms or firecrackers in the Subdivision.

Section 9. Drainage and Utility Easements. The party of the first part reserves to itself, its successors and assigns, drainage and utility easements along all rear Lot lines, all side lot lines, and front Lot lines of the numbered Lots as shown on the plat of Heritage Pointe, Phase One. Driveways shall be permitted across front and side Lot line easements.

Section 10. Maintenance, Driveways and Drainage.

(a) Maintenance and Repair of Property. The exterior of any building and yard shall be maintained, repaired and kept in a neat and clean condition. Otherwise, the Heritage Pointe of Newport HOA shall have a right and easement to have its agent enter on an owner's property after five (5) days notice to the owner to repair, remove trash and/or debris, power wash the house, or to cut the grass, and may charge the owner for the services, plus a fine and an administrative fee as may be allowed by the North Carolina Planned Community Act.

(b) Driveways. Concrete driveways must connect the roadway asphalt to the house or have concrete surfaces from road connection by time of occupancy of each residence.

(c) Road and Drainage Maintenance. Streets in Heritage Pointe, Phase One shall be owned and maintained by the Declarant until such time as the streets are deeded to the Heritage Pointe of Newport HOA, Inc. or to The Town of Newport.

Stormwater management and drainage facilities outside of the street right-of-ways in Heritage Pointe, Phase One shall be maintained by the Declarant until such time as the common areas and easements are deeded and/or dedicated to the Heritage Pointe Homeowners Association, Inc. who shall undertake the maintenance thereafter.

Section 11. Stormwater Compliance.

(a) The Stormwater Compliance Covenants are intended to ensure ongoing compliance with State Stormwater Management Permit Number SW8 170511, as issued by the Division of Energy, Mineral and Land Resources under NCAC 2H.1000.

(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 per residential lot is 4,000 square feet. The maximum built-upon area for the commercial lots is as follows:

Lot C-01 @ 20,240 sf  
Lot C-02 @ 24,236 sf  
Lot C-03 @ 25,148 sf  
Lot C-04 @ 20,287 sf

These allotted amounts include any built-upon area 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. Built-upon area includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, coquina, driveways, and parking areas, but does not include raised, open wood decking, or the water surface of swimming pools.

(g) Built-upon area in excess of the permitted amount will require a permit modification to ensure ongoing compliance with the permit and the stormwater rules.

(h) Filling in, piping or altering any vegetated conveyances (ditches, swales, etc.) associated with the development, except for average driveway crossings, is prohibited by any persons.

(i) Filling in, piping or altering any designated curb outlet swale or vegetated area associated with the development is prohibited by any persons.

(j) A 50-foot wide vegetative setback must be provided and maintained adjacent to all surface waters, measured horizontally from the normal pool elevation of impounded structures, from the top of bank of each side of streams or rivers, and from the mean high waterline of tidal waters, perpendicular to the shoreline.

(k) All roof drains shall be released as dispersed flow no closer than at the edge of the 50-foot vegetated setback. At no time shall stormwater runoff be piped into or through the setback.

(l) Each designated curb outlet must convey stormwater runoff to a vegetated conveyance swale or vegetated area as shown on the approved plans and must carry the peak flow from the 10-year storm at a non-erosive velocity, be maintained at a minimum of 100' long, 3:1 (H:V) side slopes or flatter, a minimum bottom width of 2 feet; a longitudinal slope no steeper than 5%, and a dense vegetated cover.

(m) 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.

(n) Each commercial lot whose ownership is not retained by the permittee shall submit a separate stormwater permit application to the Division and receive approval prior to construction.

If the permittee sets up an Architectural Review Committee (ARC) to review plans for compliance with the restrictions, the plans reviewed must include all proposed built-upon area (BUA). Any approvals given by the ARC do not relieve the lot owner of the responsibility to maintain compliance with the permitted BUA limit

## **ARTICLE VII SEDIMENTATION AND EROSION CONTROL**

Section 1. The Declarant's State Approved Erosion and Sedimentation Control Plan does not include approval of land disturbing activities associated with any lot.

Section 2. Lot Owners or their agents shall comply with the North Carolina Sedimentation Pollution Control Act.

Section 3. Lot Owners or agent of the Lot Owners shall provide and maintain buffer zones sufficient to restrain visible sedimentation, between the land disturbing activity and any adjacent property, including the street right of way and watercourse.

Section 4. The Lot Owners or agent of the Lot Owners prior to commencing any land disturbing activities shall install a construction exit which shall consist of 6-inch depth of 2-3 inch course aggregate base.

Section 5. New and affected cut and filled slopes must be at an angle that can be retained by vegetative cover AND must be provided with a ground cover sufficient to restrain erosion within twenty-one (21) days or thirty (30) calendar days of the completion of any phase (rough or final) of grading. Rye grass is not an acceptable substitute for the providing of temporary or permanent ground cover.

Section 6. The Lot Owners or agent of the Lot Owners within the shorter of fifteen (15) working days or ninety (90) calendar days after completion of construction must provide a permanent ground cover sufficient to restrain erosion.

Section 7. During construction of driveways or land-disturbing activities on building Lots or street right of ways in front of Lots, Lot Owners or agent of the Lot Owners undertaking such activities shall be responsible for damage to roadways, and for installing erosion control devices to prevent accelerated erosion and sedimentation of water sources. These devices, if required by any governmental authority or by Declarant, shall be constructed and maintained in accordance with the then current ordinances and regulations of the governmental authority having jurisdiction thereof. No construction debris shall be placed or dumped on any street right of way. Any ground cover or drainage system located within rights of way of streets which are disturbed during construction activity shall be re-established by the Lot Owners responsible for such activity.

### **ARTICLE VIII PROVISIONS RELATING TO WETLANDS**

All wetlands and waters in the 4.13 acre parcel shown on the map dated 07/13/2017, and delineated on the wetland survey plat dated 08/30/2010, and verified by the Corps of Engineers on 03/28/2016, shall be maintained in perpetuity in their natural condition. The 4.13 acre parcel is also identified as "404 WETLANDS SUBJECT TO RESTRICTIVE COVENANTS 4.12 AC TOTAL" and shown on that certain plat entitled "FINAL PLAT HERITAGE POINTE, PHASE ONE" as recorded in Book 33, Page 664 in the Carteret County Register of Deeds. No person or entity shall perform any of the following activities on such conservation area:

- (a) Fill, grade, excavate or perform any other land disturbing activities
- (b) Cut, mow, burn, or harm any vegetation
- (c) Construct or place any roads, walkways, buildings, mobile homes, signs, utility poles or towers, or any other permanent or temporary structures.
- (d) Drain or otherwise disrupt or alter the hydrology or drainage way of the wetland area
- (e) Dump or store soil, trash, or other waste
- (f) Graze or water animals or use for any agricultural or horticultural purpose.

Benign structures, such as pile-supported walkways, may be permissible only after reviewed and written consent is provided by the U.S. Army Corps of Engineers. This covenant is intended to ensure continued compliance with the mitigation condition of authorizations issued by the United States of America, U.S. Army Corps of Engineers, Wilmington District, Action ID: SAW-2007-04049, and therefore may be enforced by the United States of America. This covenant is to run with the land, and shall be binding on the Owner, and all parties claiming under it.

These provisions cannot be amended or modified without the express written consent of the U.S. Army Corps of Engineers, Wilmington District.

## ARTICLE IX GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Reasonable attorney's fees shall be recovered by the prevailing party for the enforcement of these covenants.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, 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. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than sixty percent (60%) of the Lot Owners, and thereafter by an instrument signed by not less than fifty percent (50%) of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation. All land described in the Newport Development Agreement as recorded in Book 1529, Page 393, Office of the Register of Deeds of Carteret County, may be annexed by Declarant without the consent of the lot owners. Moreover, any contiguous land may be annexed without the consent of the lot owners by the Declarant who hereby reserves said rights, provided any area annexed shall contribute to Common Area maintenance on a pro-rata basis, and provided any contiguous property is annexed no later than 2026.

Section 5. Access. No numbered Lot may be used for ingress, egress, regress or access to adjoining land not part of this Subdivision without the written consent of Declarant. Roadways and easements may be extended by Declarant to contiguous properties in the sole discretion of Declarant.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 8th day of August, 2018.

JW LAND, LLC

Jeremy G. Jackson, Manager

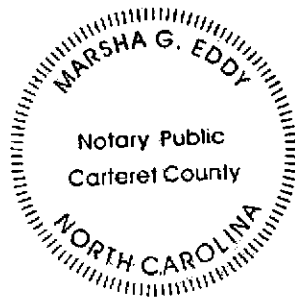
(SEAL)

NORTH CAROLINA

CARTERET COUNTY

I, Marsha G. Eddy, a Notary Public in and for the County of Carteret, State of North Carolina, do hereby certify that Jeremy C. Jackson, Manager, personally appeared before me this day and acknowledged the due execution of the foregoing Declaration of Covenants, Conditions and Restrictions for and on behalf of JW LAND, LLC.

Dated this 8th day of August, 2018.



Marsha G. Eddy  
Notary Public  
My commission expires: 6/21/19