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TONIA R HAMPTON

REGISTER OF DEEDS
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DEPUTY REGISTER OF DEEDS

BK: CRP 1192

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Bill McKeener

STATE OF NORTH CAROLINA

Prepared by The
Peninsula at Lake
James, LLC.
PO BOX 661
Murphy, NC 28906

COUNTY OF MCDOWELL

DECLARATION OF RESTRICTIONS, CONDITIONS, EASEMENTS,
COVENANTS, AGREEMENTS, LIENS, AND CHARGES OF
The Peninsula at Lake James

This Declaration made this the 23rd day of September, 2016, by:

The Peninsula at Lake James, LLC,
A North Carolina Limited Liability Company,
Hereinafter termed, "Declarant"

W I T N E S S E T H :

WHEREAS, Declarant is the owner of a certain tract or parcel of land designated as lots 1-30,34-36 and 48-76 and as is more particularly described by that plat of survey by James W. Capps, NC L-3316 of CBS Survey & Mapping, Inc., completed July 18, 2016, revised September 20. 2016 together with any revisions thereto and filed for record on September 21, 2016, in Plat Book PL27, Pages 6-7, at the Register of Deed of McDowell County, NC, reference to which is made hereby for incorporation herein; and

WHEREAS, it is the desire and intention of Declarant to sell the above described real property and any property annexed hereto by a set of Supplemental Restrictions which are and to impose upon it mutual beneficial restrictions, conditions, easements, covenants, agreements,

liens, and charges under a general plan or scheme of improvement with and in addition to those General Deed Restrictions as set forth in Deed Book 1170 Page 882-890 in the McDowell County Register of Deeds, for the benefit of all the said lands and future owners of said lands;

NOW, THEREFORE, Declarant declares that all of the property described above is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the following provisions, restrictions, conditions, easements, covenants, agreements, liens, and charges, all of which are declared and agreed to be in furtherance of a plan for subdivision improvements and sale of said real property and are established and agreed upon for the purpose of enhancing and protecting the value, desirability, and attractiveness of said real property and every part thereof, all of which shall run with the land, be appurtenant thereto and shall be binding on all parties having acquired any part thereof.

I. DEFINITIONS.

The following terms as used in this Declaration and Supplemental Declaration of Restrictions are defined as follows:

- (a) "Articles" means the Articles of Incorporation of the Association.
- (b) "Association" shall mean or refer to PLJ Property Owners Association, Inc.
- (c) "Board" means the Board of Directors of the Association.
- (d) "Bylaws" means the Bylaws of the Association.
- (e) "Declarant" means The Peninsula at Lake James, LLC or its successors and/or assigns.

(f) "Declaration" means this Declaration of Restrictions, Conditions, Easements, Covenants, Agreements, Liens, and Charges, and any amendments thereto.

(g) "Developer" means The Peninsula at Lake James, LLC, or its successors and/or assigns.

(h) "Development" means all real property situate in McDowell County, North Carolina, in the aforementioned plat of survey and all other property which may be annexed thereto as provided herein.

(i) "Owner" means any person, firm, corporation, trust or other legal entity, including Developer, who holds fee simple title to any lot.

(j) "Supplemental Declaration" means any Declaration filed for record in McDowell County, North Carolina, subsequent to the filing of record of this document; or in the event of real property being annexed to the Development, the recorded Supplemental Declaration which incorporates the provisions of this Declaration therein by reference. In either event, the Supplemental Declaration shall include a description of the real property in the Development subject to the provisions of this Declaration and shall designate the permitted uses of such property.

(k) "Improvements" means all buildings, out-buildings, streets, roads, driveways, parking areas, fences and retaining walls and other walls, poles, antennae, and other structures of any type or kind.

(l) "Lot" means any numbered or unnumbered lot or parcel of land within the Development as shown on a registered plat of survey.

II. PRINCIPAL USES

This Declaration shall designate the principal uses of lots which are more particularly described on the aforementioned plat of survey, which are made subject to this Declaration. If a use other than that set out herein is designated, the provisions relating to permissible uses may be set forth in a Supplemental Declaration. The provisions for single family residential use of a lot are set forth below:

Residential Dwelling

Except that as to those areas which may be designated on a plat or otherwise for a common enjoyment and use by all lot owners, lots in the subdivision shall be used for single family dwelling purposes only and shall not be higher than two (2) stories exclusive of basements. Residences may be rented/leased short or long term by owners without approval of the declarant or association with the understanding that renters/leasee of the owner will respect common areas and any damage caused to common areas by renter/leasee can be passed on to the renter/lessor of the property.

Minimum Use

The footprint of a single story, single-family dwelling shall be a minimum of 2,000 square feet of fully enclosed heated living area on the ground/main floor for homes with frontage on Lake James. For Homes that do not have frontage on Lake James the footprint of a single story, single-family dwelling shall be a minimum of 1,600 square feet of fully enclosed heated living area on the ground/main floor. If a home is greater than one level the ground/main floor shall include a minimum of 1,400 square feet for a home with frontage on Lake James, with a minimum of 2,000 square feet of fully enclosed heated living area for all floors. For homes that do not have frontage on Lake James that have greater than one level the ground/main level should include a minimum of 1,200 square feet, with a minimum of 1,600 square feet of fully enclosed heated living area for all floors.

Heated Living Area includes basement areas (defined as any level in which at least one perimeter wall is below, or partially below, grade), so long as such basement areas are fully heated and air-conditioned and constructed to a quality equal to the above grade levels of the dwelling. In addition, Heated Living Area excludes vaulted ceilings areas, attics, unheated porches, attached or detached garages, porte-cocheres and unheated storage areas, decks and patios.

One guest house and any other accessory structure which contains heated living area may be built if the single-family dwelling has been completed or being constructed simultaneously. A guest house and accessory structures may be constructed with a total heated square footage contained within all such structures combined which shall not exceed the lesser: (1) 50% of the square footage of the "Heated Living Area" of the primary dwelling on the lot and, (2) 2000 square feet. However a guesthouse must contain a minimum of 700 square feet of heated living area. Detached Garages must be connected to the house or accessed by a covered breezeway, covered walkway or enclosed walkway of same roofline. Garages can contain additional living space on a second level if such space is heated, but the square footage of the heated area will count against the square footage for other accessory structures on the lot. Garages, Guest House and other structures defined in this section must be constructed in the same manner as the main home. Such accessory structures shall not exceed the height of the roof of the residence. All structures should permanently affixed to the property.

Recreational structures are permitted including decking, gazebos,

covered patios, playhouses, barbecue pits and similar structures provide, however, the total square footage contained within such structures combined shall not exceed the lesser of: (1) 50% of the square footage of the "Heated Living Area" of the primary dwelling on the lot and, (2) 1000 square footage feet.

Garages that are incorporated into the main footprint of the house are not considered accessory structures. Their square footages will not be counted when calculating available square footage for accessory buildings or recreational buildings unless the garage or a portion there of is heated.

Lots that fall within the Lake James Protection Act are limited to 24% impervious surfaces and this must be paid attention too when designing structures and layout of lots.

For structures that are constructed with frontage on Lake James exterior lighting restrictions will apply. If exterior lighting must be placed on the lake facing side lighting will be aimed down and not at the lake. No motion detection lighting can be located on the lake facing side of the home.

Necessary parking shall be provided by each individual lot owner in a manner than will not obstruct road traffic.

Residential Dwellings and Permitted Accessory Structures - Permissible

Materials

All structures, should be built of similar or comparable materials. No cinder block, cement, solite block, vinyl siding, T1-11 or asphalt shingle side, imitation brick, synthetic stucco and stone

roll siding, and the like shall be permitted for the finished exterior of any structure except for masonry foundations which must be covered with brick or natural or manufactured stone veneer, or sealed, purged and painted to conceal block joints; however poured foundations with brick simulations and hard stucco shall be acceptable.

Exterior Colors will be limited to earth tones.

Roof

All roofs must have a minimum pitch of 6/12 and not less than a 6 inch overhang and shall be covered with asphalt or fiberglass shingles, terra cotta tile that are earth tone, real or man-made slate, copper sheathing or wood shingles or pre-painted metal roofing.

Modular or Mobile Homes, Temporary Structures and Vehicles

Except as expressly provided herein, no house trailer, mobile home, manufactured home, modular home, (or structure having the characteristics or appearance of a mobile, modular or manufactured home) camper, tent, commercial vehicles, travel trailer, and/or other temporary type residence shall be placed or located upon any lot, and no boat, houseboat or watercraft docked or moored upon the waters of Lake James in the immediate vicinity of the property, access to which is provided through or from the property or any lot shall be used at anytime as a residence;

Upon completion of construction of a residential dwelling, an owner may park any travel trailer(s) or camper upon said lot for

storage purposes and not for residential purposes within a storage building.

Construction Material Storage

All construction material placed upon any lot shall be assimilated so as not to interfere with the use and enjoyment of appurtenant lots thereto.

In the event that an owner temporarily terminates construction of a residential building on or before the requisite one (1) year construction period as herein provided, all small building materials must be stored inside the structure and all large materials must be covered beside and behind the structure during this period of time.

Junk Cars and Appliances

No unlicensed, unused, discarded, or salvaged motor vehicle or any part thereof and no unusable or salvaged household appliances, or parts thereof, shall be placed or left anywhere on any lot outside of any enclosed building or on the right-of-way of any subdivision road.

No Nuisances

No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to the neighborhood. All lots shall be kept free of accumulations of brush, trash, junk building materials, inoperable automobiles and vehicles or other unsightly things and growth of grass above eighteen inches. After

fourteen (14) days written notice to the owner, sent to the address contained in the list maintained by the Association, the Association reserves the right of entry for the purpose of clearing away any such violations, assessing the cost thereof against the owner and such assessments shall be enforceable against the owner as other liens herein provided for.

Signs

No signs may be placed on any lot except a sign displaying the property address without approval of the declarant or the property owner's association, with the exception of identification or permit boxes used for construction. For sale signs are permitted with approval from the Declarant or the Property Owners Association.

Fences

Only wood rail fences will be allowed and shall not exceed 6' feet in height, must be aesthetically pleasing and built in a professional manner and must be of natural colors or earth tones. However in the event that standard privacy fence obstructs the homeowners' view of the lake, decorative aluminum rail fence may be used. Chain link fence or similar products are expressly prohibited.

Refuse Disposal and Concealment of Fuel Storage Tanks Trash Receptacles

Owners shall enclose any fuel storage tank on any lot so as to render it invisible from any street, adjoining water, or other common area, if any, within the subdivision.

Owners shall not allow accumulation of refuse or garbage on any lot except in a concealed receptacle.

Septic Tanks

Prior to the occupancy of any residence on any lot, a proper and suitable septic tank and accompanying system shall be installed on such parcel for the disposal and treatment of all sewage. No sewage shall be emptied or discharged into any marsh, stream, or ravine, or upon the surface of the ground. No sewage disposal system shall be permitted or used on any lot unless said system is located, constructed and maintained in accordance with the requirements, standards, and recommendations of the appropriate public health authority, and approval of said system shall be obtained from said authority prior to occupancy of any dwelling on any lot.

Water and Use, Tap Fees and Annual Water Fees

Water is available for each homeowner through shared wells referred to as association wells. At closing each lot owner will pay a one-time water fee of \$1,500.00 due to the developer/declarant. The water trunk lines will be run in the road right of way to the property line of each owner and it will be the lot owner's responsibility to run the service line from lot line to the residence. Once a lot owner is ready to tap onto the association wells there will be a tap fee of \$150.00 due to the association water fund and an on going yearly fee will commence in the amount of \$350.00 payable to the association water account and this will be prorated from time of tap. The

association will maintain the wells, trunk lines and pumps. Lot owners can drill their own wells at their own expense and will not be required to pay the yearly water fee and the association and developer/declarant will not be responsible for these individual wells. Water from association wells will be for basic residential use and will not be restricted or monitored. But in respect for conservation of water and all members of the association, the watering of plants and landscaping should be keep minimal per day, no irrigation systems are to be feed from association wells. If the lot owner constructs a pool, fountain, hot tub, or other item that might consume mass amounts of water on their property it may be necessary for the lot owner to make arrangements for outside water delivery or drill their own well to accommodate these items to protect the best interest of the community none of these items are to be feed from association wells.

Roads and Maintenance

The association will maintain roadways including the private drive on lots 15, 16 and 17 and this expense will be accumulated through road assessments defined in assessments sections of these articles.

Maintenance of Lots

It shall be the responsibility of each owner to prevent the development of any unclean, unsightly, or unkempt condition(s) of building or grounds on such lot, which shall tend to substantially decrease the beauty of the neighborhood as a whole or of the specific area. Excavation and landscaping of a lot shall conform to approved

practices of the appropriate county or state agency having jurisdiction over such matters.

In the event of failure of owner to maintain the lot and/or the improvements thereon in good condition the Association may make such repairs and perform such maintenance as may be necessary for the general benefit of the remaining owners. The cost thereof shall be assessed against the owner and such assessment shall be enforced as other liens herein provided.

Animals

No livestock, swine, goats, horses, ponies, mules or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs and cats and other household pets are permitted so long as they are kept within the lot boundary lines and not raised for commercial purposes.

Dangerous Substances

Owner shall not store or permit to be stored any toxic chemicals, wastes, or pesticides on any lot.

Lot Subdivision

No lot may be subdivided or re-subdivided once conveyed by the Declarant. The Declarant reserves the right to re-subdivide or re-configure any of its unsold lots or enlarge by merger or by adding additional land outside of the initial subdivision to any of its unsold lots or to add additional lots to the subdivision, provided,

that any such action by the Declarant is consistent with the existing caliber of the community. If two or more adjoining lots are acquired by the same owner, no part or parts of said lots shall be conveyed by said owner unless each lot being conveyed and each lot being retained is in compliance with all of these restrictions and covenants.

Provided, however, that an entire lot may be conveyed at the same time to two (2) or more adjoining lot owners, with each of the grantees receiving a portion of the lot, so that the lot so conveyed ceases to exist as a separate lot. Where portions of a lot are conveyed to one or more adjoining lot owners for the purpose of merging such portion of that lot with an existing lot, each portion so conveyed shall not be deemed a separate lot and building site, but shall be considered an addition to the lot of the acquiring land owner.

Setback Restrictions

Lots will be subject to setback requirements defined by the 2003 Lake James Protection Act and as shown on the recorded plat. With regard to setback lines, no residence or other building shall be constructed closer than 65 feet from the Duke Energy Reference Line, unless allowed by the 2003 Lake James Protection Act. If the home is being constructed on a lot with a slope greater than 2/1 then the setback will increase to 75 feet from Duke Energy Reference Line. 15 feet from any interior (SIDE) lot boundary line. 15 feet on front (road side) off of 45 foot Right of Way. For off water lots the back setback will be 25 feet.

Storage Buildings

One outside storage building per house that conforms to the standards of the subdivision may be erected if it doesn't contain heated square footage and is limited to 300 square feet. If it is heated the square footage will be counted against your maximum square footage of your guesthouse or other accessory structure.

Under Brushing, Mature Trees and Site Disturbances

All lot owners especially lakefront homeowners should be aware of, follow and understand the 2003 Lake James Protection Act and how it effects their lot. Any disturbance within the Duke Energy Reference Line and 50 feet must be approved by the Planning Administrator of McDowell County by submitting a McDowell County Shoreline Protection Permit. There are further restrictions within 50 feet and 100 feet of the Duke Energy Reference Line. If a homeowner cuts, clears any trees or ground cover in or outside the area covered by the 2003 Lake James Protection Act the ground should be repaired and covered within 14 days or quicker if specified by governing ordinance.

If an owner plans any disturbances on their lot aside from following the Lake James Protection Act or required soil and erosion plans the owner will place a silt fence 50 feet from the Duke reference line and for lots that don't have lake frontage a silt fence will be placed 25 feet from back of the lot or 25 feet from the downslope of the lot.

Boat, Boat Docks, Docking and Paths in Vegetation Buffer

Duke Energy Lake Services is responsible for approving dock permits.

The only roof color allowed on docks will be green, no light or bright green; the color should be darker green or forest green. The association will not restrict the material of which the dock is constructed.

Paths located in the protective vegetation buffer governed by the Lake James Protection Act will only contain natural base such as mulch or wood chips. In some cases steps will be required due to grade, but pathways will not contain impervious surfaces.

No water craft equipped with a marine toilet having a fixed or portable holding tank, or a through hull or overboard discharge toilet, shall be permitted at any piers or boat slips constructed on or connected with the property or any lot or at any other pier or boat slip adjacent to any portion of the property, or otherwise moored, anchored, or docked in the waters of Lake James adjacent to any lot or portion of the property, access to which is provided through or from the property or any lot.

Common Areas including Boat Storage Area

The association will maintain common Areas including gates and all owners will have the same rights and privileges to use common areas.

Boat Storage will be limited for trailered boats, trailered jet-skis or other trailered watercraft. Trailers for all the above will be

allowed also. The Boat Storage area will not be for RV's or 4 Wheelers or other motorized vehicles. Boats & Trailers only.

Declarant and James Land LLC shall have the right to grant the rights and privileges to use common areas to lot owners who are owners within any after acquired adjoining tract acquired by James Land, LLC or declarant. These lands will be restricted by same or like restrictions.

III. RIGHTS-OF-WAY AND EASEMENTS

The Declarant reserves unto itself, its successors, and assigns a perpetual, alienable, releasable, and non-exclusive road and utility right-of-way for purposes of ingress, egress, regress and utilities over, on, and across all roadways, whether existing or not, shown on any recorded plat of said subdivision for the benefit of properties now owned or hereafter acquired by Declarant or James Land, LLC, which will be served by the access roads which traverse the lands herein restricted including those lands hereafter acquired which adjoin a common line with the here in restricted lands and which may adjoin a common line to a hereafter acquired tract. Declarant further reserves the right to grant said right-of-way unto additional properties owned by third parties in its sole discretion. Unless otherwise shown on a conveyance or plat, said road and utility right-of-way shall be 45 feet in width, 22.5 feet on either side of the centerline of the roadway.

Said road and utility rights-of-way are for the benefit, use and enjoyment of the owners and their heirs, successors, and assigns, and

every conveyance of the lands herein restricted shall be deemed to be subject to said easements while conveying to the Grantee under said conveyance a similar right appurtenant to his lands to the benefit, use, and enjoyment of said easements in common with the undersigned Declarant, its successors, and assigns, said road and utility right-of-way and easement to provide access to the State maintained road.

IV. PROPERTY OWNERS ASSOCIATION

Membership Covenant

All owners of lots in this subdivision shall become members of the Association upon the execution, delivery, and recordation of a deed of conveyance of title to any lot or lots at the Register of Deeds of McDowell County, North Carolina.

Each owner of a lot subject to these covenants and restrictions shall maintain one (1) membership per lot. All lot owners shall abide by the Bylaws of the Association as may be amended from time to time and further agree to pay to the Association an annual maintenance charge as hereinafter set forth.

Assessments

SECTION ONE

Purpose for Assessments. The Developer and its successors in interest, including the Association as herein provided shall, pursuant to these Declarations, have the power to levy assessments as herein provided for the purpose of financing the operations of the

Association and maintaining roads, common areas and other improvements for services within or for the benefit of subdivision lots, including roads and/or utility easements of the subdivision in accordance with the formula herein set forth.

SECTION TWO

Creation of Lien and Personal Obligation for Assessments. Each lot is and shall be subject to a lien and permanent charge in favor of the Developer or the Association in the event of transfer by the Developer to the Association of any and all rights and responsibilities it has under and pursuant to the terms of this indenture for the annual and special assessments set forth in Section Two and Three of this Article IV. Each assessment, together with interest thereon and cost of collection thereof as hereinafter provided, shall be a permanent charge and continuing lien upon the lot or lots against which it relates and shall also be the joint and several personal obligation of each lot owner at the time the assessment becomes due and payable and upon such owner's successor in title if unpaid on the date of the conveyance of the lot. Each and every owner covenants to pay such amounts to the Association when the same shall become due and payable. The purchaser of a lot at a judicial or foreclosure sale shall be liable only for the assessments due and payable after the date of such sale. Purchasers of multiple lots within the subdivision shall pay only one (1) annual assessment unless their lot ownership is greater than three (3) lots. For each lot the purchaser owns over three (3), each additional lot shall be due an additional assessment.

SECTION THREE

Annual Assessments/Road Impact. No later than December 1 of each calendar year the Developer or the Association, as assignee of any and all rights and responsibilities of Developer, shall establish the annual assessments based upon the following considerations: (1) the cash reserve, if any, on account with a lending institution as created for the benefit of the lots of the subdivision; (2) the expenditures devoted to the benefit of the subdivision lots during the immediately preceding twelve (12) month period; and (3) the projected annual rate of inflation for the forthcoming year foreseeable for the county in which the land subject hereto is situate as determined by review of information available to any person, firm, or corporation by any governmental agency, lending institution or private enterprise which provides such statistical data upon request; provided that in any event the minimum annual assessment for 2016 on each lot shall be \$550.00 Dollars, a minimum of \$50.00 of the assessment will be transferred to the Water Fund. In addition to the annual assessment there will be an annual Road Maintenance Assessment of \$100.00 per lot. At such time a lot owner desires to construct a residence the owner is due the association a construction deposit of \$2,000.00 of which half is refundable upon completion of construction and inspection by Developer or Association showing no damage or lot owner repairing roads to their original condition, the non-refundable portion of the deposit will be deposited to the road fund. Once a lot owner has constructed a residence on the property, the Road Maintenance Assessment for such improved lot shall be \$250.00 per

year. In addition to the assessment, herein stated, upon a purchase of a lot whether from declarant or subsequent lot owner the purchaser of the lot shall pay a road impact fee of \$500.00. The initial road impact fee of \$500.00 which is paid at closing of lot from the declarant to lot owner shall be paid to the declarant. All subsequent Road Impact fees after the initial sale from declarant shall be paid to the association. This assessment will not be prorated. Provided, however, a conveyance by a lot owner to a family trust or legal entity controlled by the lot owner is exempt from this road impact fee.

Notwithstanding anything to the contrary contained in the foregoing or elsewhere in this Declaration, Declarant/Developer shall be exempt from all assessments relating to any lot or tract owned by Declarant/Developer or assigns by the Declarant/Developer. The Declarant/Developer reserves the right to convey remaining un-conveyed property on one occasion to a bundled lot purchaser and these lots will be exempt from all but an assessment of one lot until such time a lot is subsequently conveyed by the bundled lot purchaser. All remaining lots in the bundle will still be exempt from assessments over one lot. Assessments will apply to a lot once the bundled lot purchaser conveys it.

Developer, or the Association as assignee of the Developer as herein provided, shall give written notice to each owner of each lot the annual assessment fixed against each respective lot for such immediately succeeding calendar year.

The annual assessments levied by the Developer or Developer shall collect the Association as herein provided or the Treasurer of the

Association as provided in Section Five of this Article IV.

The annual assessments shall not be used to pay for the following expenses.

- (a) Casualty insurance of individual owners for their lots and improvements thereon or for their possessions within any improvement thereon, any liability insurance of such owner insuring themselves and their families individually, which insurance coverage shall be the sole responsibility of the owner(s);
- (b) Telephone, gas, sewer, cable television, or electrical utility charges for each lot which expense shall be the sole responsibility of each respective lot owner; and
- (c) Ad valorem taxes for any lot, improvement thereon, or personal property owned by owner of any lot.

SECTION FOUR

Special Assessments. In addition to annual assessments, the Developer, or the Association as assignee of the Developer as herein provided, may levy in any calendar year, special assessments for the purpose of supplementing the annual assessments if the same are inadequate to pay expenses and for the purpose of defraying in whole or in part the cost of any construction or reconstruction, repair or replacement of improvements on any lot or appurtenances thereto; provided, however, that any such special assessment by the Association shall have the assent of the majority of the votes represented, in person or proxy, at a meeting at which a quorum is present, duly called for the express purpose of approving such expenditure(s), written notice of which shall be sent to all lot owners not less than ten (10) days nor more than sixty (60) days in advance of such meeting, which notice shall set forth the purpose of the meeting. Any

special assessments shall be fixed against the specific lot or lots for which expenditure is appropriated. The period of the assessment and manner of payment shall be determined by the Board of Directors of the Association.

SECTION FIVE

Date of Commencement of Annual Assessments - Due Dates.

Assessments are due in annual installments on or before January 31 of each calendar year, or in such other reasonable manner as the Developer or the Board of Directors of the Association as designee of the Developer by and through its Treasurer shall designate.

The annual assessment(s) provided for in this Article IV shall, as to each lot, commence upon either the execution and delivery of or the recordation of a deed of conveyance, whichever in time first occurs ("commencement date".)

The first annual installment for each such lot shall be an amount (rounding the sum to the nearest whole dollar) equal to the annual payment by the number of days in the current annual payment period divided by the number of days in the current annual payment period and multiplied by the number of days then remaining in such annual payment period.

The Developer, or the Association as assignee of Developer, shall upon demand at any time, furnish any lot owner liable for any such assessment a certificate in writing setting forth whether the same has been paid. A reasonable charge may be made for the issuance of any certificate. Such certificate shall be conclusive evidence of any

payment of any assessment therein stated to have been paid.

SECTION SIX

Effect of Non-payment of Assessments, the Personal Obligation of the Owner; the Lien; Remedies of Developer and/or its Assignees, including the Association. If an assessment is not paid on the date when due as hereinabove provided, then such assessment, together with any interest thereon and any cost of collection, including attorney fees as hereinafter provided, shall be a charge and continuing lien on the respective lot to which it relates and shall bind such property in the hands of the owner, his heirs, legal representatives, successors, and assigns for payment thereof. The personal obligation of the then owner to pay such assessment and related costs shall remain his personal obligation and if his successor in title assumes this personal obligation, such prior owner shall nevertheless remain as fully obligated as before to pay the Developer or its assignee any and all amounts which said lot owner was obligated to pay immediately preceding the transfer of title thereto; and such prior lot owner and his successor in title who may assume such liability shall be jointly and severally liable with respect thereto, notwithstanding any agreement between such lot owner and his successor in title creating the relationship of principal and surety as between themselves other than one by virtue of which such prior lot owner and his successor in title would be jointly and severally liable to make any lot assessment payment.

Any such assessment not paid by the 15th day of March as herein set forth within which such assessment is due, shall bear interest at

the rate of eight (8%) percent per annum from such date (delinquency date) and shall be payable in addition to the basic assessment amount then due and payable.

The Developer or its assigns, including the Association, may institute legal action against any owner personally obligated to pay any assessment or foreclose its lien against any lot to which it relates or pursue either such course at the same time or successively. In such event the Developer or its assigns, including the Association, shall be entitled to recover attorney's fees actually incurred but not exceeding fifteen (15%) percent of the amount of the delinquent assessment and any and all other costs of collection, including, but not limited to, court costs.

By the acceptance by owner of a deed or other conveyance for a lot in the subdivision, vests the Developer or its assigns, including the Association as herein provided, the right and power to institute all actions against him personally for the collection of such charges as a debt and to foreclose the aforesaid lien in appropriate proceeding at law or in equity.

The Developer and its assigns, including the Association as herein provided, shall have the power to bid on any lot at any foreclosure sale and to require, hold, lease, mortgage, and convey any lot purchased in connection therewith.

No owner shall be relieved from liability from any assessment provided for herein by abandonment of his lot or lots.

SECTION SEVEN

Subordination of the Charges and Liens to Mortgages Secured by Promissory Notes. The lien and permanent charge for the annual and any special assessment together with interest thereon and any costs of collection) authorized herein with respect to any lot is hereby made subordinate to the lien of any mortgage placed on any lot if, but only if, all assessments with respect to any such lot having a due date on or prior to the date of such deed of trust is filed for record have been paid in full. The lien and permanent charge hereby subordinated is only such lien and charge as relates to assessments authorized hereunder having a due date subsequent to the date such lien of mortgage is filed for record prior to the satisfaction, cancellation or foreclosure of such lien of deed of trust or sale or transfer of any mortgaged lot pursuant to any proceeding in lieu of foreclosure or the sale under power contained in any deed of trust.

(a) Such subordination procedure is merely a subordination and not to relieve any lot owner of the mortgaged property of his personal obligation to pay all assessments coming due at a time when he is a lot owner; shall not relieve such property from the lien and permanent charge provided for herein (except as to the extent the subordinated lien and permanent charge is extinguished as a result of such subordination or against the beneficiary of the lien of a deed of trust or his assignees or transferee by foreclosure or by sale or transfer in any proceeding in lieu of foreclosure or by power of sale); and no sale or transfer for such property to the beneficiary of the lien of any deed of trust or to any other person pursuant to a foreclosures sale, or pursuant to any other proceeding in lieu of foreclosure, or pursuant to a sale under power, shall relieve any existing or previous owner of such lot of any personal obligation, or relieve any subsequent lot owner from liability for any assessment coming due after such sale or transfer of title to a subdivision lot.

(b) Notwithstanding the foregoing provision, the Developer or its assigns, including the Association as herein provided may, in writing at any time, whether before or after any lien of deed of trust is placed upon a subdivision lot,

waive, relinquish or quitclaim in whole or in part the right of Developer or its assigns, including the Association as herein provided, to any assessment provided for hereunder with respect to such lot coming due during the period while such property is or may be held by any beneficiary of the lien of any deed of trust pursuant to the said sale or transfer.

SECTION EIGHT

Exempt Property. Each lot shall be exempt from the assessments created hereunder until the execution and delivery of a deed from the Developer, its successors and/or assigns in interest to an owner making the lot conveyed subject to these Declarations.

Except as expressly provided in this Section Eight, no lot shall be exempt from assessments

V. REMEDIES FOR VIOLATIONS, AMENDMENTS TERMS, AND MISCELLANEOUS PROVISIONS

Enforcement

These Covenants, Restrictions, Easements, Reservations, Terms, and Conditions shall run with the land and shall be binding on all parties and all persons claiming under them.

Enforcement of these Covenants, Restrictions, Easements, Reservations, Terms, and Conditions may be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages. Either the undersigned Developer, or any successor in title to the undersigned Developer, or any owner of any property affected hereby may institute such proceedings.

Amendment

These Covenants, Restrictions, Easements, Reservations, Terms and Conditions may be altered, amended, or repealed at any time by filing in the office of the Register of Deeds of McDowell County, North Carolina, an instrument setting forth such annulment, amendment or modification, executed by either the Developer or its assigns and/or successors in interest any time during which it owns of record lots in the Development subject to this Declaration or Declarant is an owner of adjacent properties which it intends or has intention to subdivide or, in the alternative, by the owner or owners of record as set forth on the records in the office of the Register of Deeds of McDowell County, North Carolina at any time of the filing of such instruments by consent in writing of seventy-five (75%) percent of the owners of lots subject to these restrictions.

Invalidation

Invalidation of any one of the provisions of this instrument by a Judgment or Order of a court of competent jurisdiction shall in no wise affect the validity of any of the other provisions which shall remain in full force and effect.

Developer's Obligation(s)

In this instrument, certain easements and reservations of rights have been made in favor of the undersigned Developer. It is not the intention of the undersigned Developer in making these reservations and easements to create any positive obligations on the undersigned Developer insofar as building or maintaining roads, water systems,

sewage systems, furnishing garbage disposal, beginning and prosecuting a lawsuit to enforce the provisions of this instrument, or of removing people, animals, plants, or things that become offensive and violate this instrument. Where a positive obligation is not specifically set forth herein, none shall be interpreted as existing as it relates to the Developer.

Term

The provisions of this Declaration shall run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty (30) years from the date these Covenants are filed for record at the office of the Register of Deeds of McDowell County, North Carolina at which time said Covenants shall be automatically extended for successive periods of ten (10) years unless prior to the beginning of such ten (10) year period an instrument signed by the then owner(s) of seventy-five (75%) percent of lots subject to this Declaration agreeing to terminate, amend, or modify these Restrictions shall have been recorded in the office of the Register of Deeds of McDowell County, North Carolina.

Governmental Regulations

The property herein described and lots subdivided therefrom, in addition to being subject to this Declaration, are conveyed subject to all present and future rules, regulations, and resolutions of the County of McDowell, State of North Carolina, if any, relative to zoning and the construction and erection of any buildings or other

improvements thereon.

Notices

Any notice required to be sent to any member or owner under the provisions of the Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as a member or owner of record(s) of the Association at the time of such mailing.

Assignment

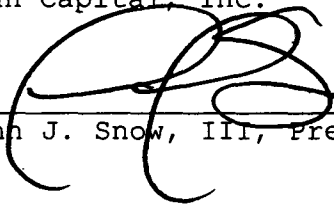
The Developer may assign any and all rights and responsibilities it has under the terms of this Declaration to the Property Owner's Association.

Supplemental Declarations and Annexation

Developer reserves the right to annex additional properties to the terms and conditions of these restrictions by the recordation of a Supplemental Declaration subjecting said properties to these Declarations.

IN WITNESS WHEREOF, the Declarant has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Managers, the day and year first above written.

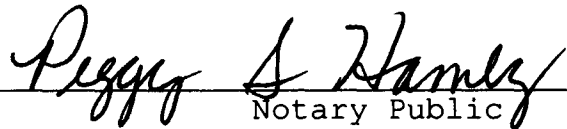
The Peninsula at Lake James, LLC by and through its manager,
Tartan Capital, Inc.

By: 
John J. Snow, III, President

State of NORTH CAROLINA, County of CHEROKEE

I, PEGGY S. HAMBY, a Notary Public of the aforesaid state and county, do hereby certify that JOHN J. SNOW, III, President of TARTAN CAPITAL, INC., as manager of THE PENINSULA AT LAKE JAMES, LLC a North Carolina Limited Liability Company, personally appeared before me this day and acknowledged the execution and sealing of the foregoing instrument as Manager on behalf of and as the act of the company referred to in this acknowledgment.

Witness my hand and Notarial Seal, this 23rd day of September, 2016.


Notary Public

My commission expires:
April 25, 2017

