

**DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
WINTER PARK SUBDIVISION**

THIS DECLARATION is made this 23rd day of March, 1999, by JAMESTOWN BUILDING CORPORATION, INC. a Virginia corporation, (the "Declarant") whose mailing address is P.O. Box 3011, Williamsburg, VA 23187-3011.

**RECITALS:**

Declarant is the owner of a certain property in Powhatan District, James City County, Virginia known as "Winter Park" which is more particularly described as:

All that certain lot, piece or parcel of land included in the plat of subdivision entitled, "PLAT OF SUBDIVISION, WINTER PARK - PARCEL ONE, OWNED BY JAMESTOWN BUILDING CORPORATION, INC.," dated August 31, 1998 and revised October 8, 1998 and November 23, 1998, made by AES, Consulting Engineers, and recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and the County of James City, Virginia, on January 11, 1999 in Plat Book 71 at pages 64 - 65.

NOW, THEREFORE, Declarant hereby declares that all of the property described above 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 the Subdivision, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

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## ARTICLE I

### DEFINITIONS

SECTION 1. "Association" or "WPOA" shall mean and refer to the Winter Park Owner's Association, Inc., a Virginia non-stock corporation, its successors and assigns.

SECTION 2. "Common Area" shall mean all areas designated on the plat of subdivision as Common Area including roads, parking utilities, and tot lot and any right of way which may now be or hereafter conveyed to the Association that are intended to be devoted to the common use and enjoyment of the members of the Association.

SECTION 3. "Declarant" shall mean and refer to Jamestown Building Corporation, Inc., a Virginia corporation its successors and assigns if such successors or assigns acquire the property described above for the purpose of development.

SECTION 3. "Lot" shall mean and refer to the numbered lots intended for constructing residential homes thereon, as shown in the Subdivision as Lots 1 through 40.

SECTION 4. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, including contract sellers, but excluding those have such interest merely as security for the performance of any obligation.

SECTION 5. "WPAC" shall mean and refer to Winter Park Architectural Committee as established herein.

## ARTICLE II

### PROPERTY RIGHTS

SECTION 1. Every Owner shall have a right of easement and enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with title to every Lot

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subject to the following provisions:

- a. right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated on the Common Area;
- b. the right of the Association to suspend the voting rights and right of use of the facilities for any period during which any assessment against his Lot or Lots remain unpaid for more than thirty (30) days after notice;
- c. the right of the Association to suspend the right of an Owner to use the facilities for a period not to exceed sixty (60) days for any other infraction of this declaration or rules, by-laws, or regulations of the WPOA, which remain uncorrected after given notice for such correction by the WPOA, the Declarant or the duly authorized representatives or agents thereof. Such notice of infraction shall include a statement of said infraction complained of and the manner of its correction;
- d. the right of the Association to mortgage any or all of the facilities constructed on the Common Area for the purposes of improvements or repair to such Common Area; and
- e. 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 purpose and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless 2/3rds of each class of members so agree.

**SECTION 2.** The Association shall be responsible for the management and control of the Common Area and all improvements thereon, including furnishings and equipment related thereto, and shall keep the same in good, clean, attractive and sanitary condition

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order and repair. The Association, by its endorsement of this Declaration, accepts such obligation.

SECTION 3. An Owner may delegate his right of enjoyment to the Common Area to the members of his family, his tenants, or contract purchasers who reside on the property, subject to the general rules, regulations, by-laws and directives, which may be established by the Association.

SECTION 4. In the event any Common Area is damaged or destroyed by an owner, his tenants, or any of their guests, licensees, agents or members of their families, the owner does hereby authorize the WPOA, or, should such not then be established, the Declarant, to repair such damaged area. The repairs shall be made in a good workman like manner in conformance with original plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Declarant or the WPOA. The costs of such repairs shall become an assessment upon the Lot of such Owner and shall be payable to the WPOA, the Declarant, or their successors in interest.

SECTION 5. The Declarant may retain the legal title to the Common Areas or any portion thereof until such time as it has completed improvements thereon, but notwithstanding any provision herein, the Declarant hereby covenants that it shall convey the Common Area to the Association, free and clear of all liens and financial encumbrances, not later than two years from the date such Common Area or portion thereof is subjected to this Declaration, or within the period of two years from organization of the WPOA, whichever date shall be later, except that prior to such conveyance at the option of the Declarant and upon notice in writing to the WPOA, the WPOA shall become liable for

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payment of taxes, insurance and maintenance costs with respect to such Common Areas.

### ARTICLE III

#### ARCHITECTURAL CONTROL AND REVIEW

SECTION 1. The Winter Park Architectural Committee (WPAC) shall consist initially of three (3) members appointed by the Declarant. They shall function to make all decisions regarding interpretation of this Article. Upon the completion of all development in this and any subsequent phases of development by said Declarant, or any of its successors in interest, the WPAC shall be dissolved upon action of the Declarant, or its function may be at the option of the Declarant be transferred to duly authorized representatives of the Association in partnership with the Seasons Trace Single Family Association. Completion of development shall mean for the purposes of these restrictions that all lots in the development, including any later phases thereof have been sold and a residence has been built thereon or at such time as the Declarant or its successors in interest have determined that it shall no longer be in the best interests of the Declarant to continue to maintain the existence of the WPAC.

SECTION 2. No building, fence, wall or other structure shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition, change, or alteration be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography. The Declarant or an architectural committee composed of three (3) or more representatives appointed by the Declarant shall approve any such change. If the Declarant, or its designated

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Committee fails to approve or disapprove the plans submitted within thirty (30) days after said plans and specifications have been submitted, approval will not be required and this paragraph will be deemed to be complied with fully.

SECTION 3. No living tree with a diameter of six inches or more shall be destroyed by any person without approval of the Declarant or the Committee.

SECTION 4. Only those General Contractors approved by the Declarant shall be permitted to build improvements on any lot.

#### ARTICLE IV

#### USE RESTRICTIONS

SECTION 1. Each Lot shall be used exclusively for residential purposes and no building shall be erected, altered, placed or permitted to remain thereon other than one single-family dwelling with a minimum of 1,000 square feet of living space approved pursuant to Article II of this Declaration.

SECTION 2. Declarant reserves for its benefit and the benefit of its successors and assigns easements for the installation, repair, maintenance and/or replacement of utility and drainage facilities within the areas reserved for and designated "Easement" on the above plat and where no easement is so designated, within an area five feet in width along the front, side and rear lines of each lot, and the right to use said areas for ingress and egress in connection therewith. Declarant further reserves the right, before or after the sale of any of the lots, to transfer and assign any of the rights and easements herein described.

SECTION 3. There shall be no outdoor open airing or drying of any clothing, bed linens, blankets, rugs, etc. except at such locations and on such terms and conditions as may

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be prescribed by the Declarant.

SECTION 4. No obnoxious or offensive activity shall be conducted or permitted on any Lot, nor shall anything be done thereon which may be or become an annoyance to the neighborhood. No business or profession of any kind or nature shall be carried on or practiced in any dwelling without the express written consent of the Declarant.

SECTION 5. No trailer, tent, shack, barn, garage, or outbuilding shall be used on any Lot anytime as a residence, either temporarily or permanently. Nor shall any boat, boat trailer, a school bus, truck with commercial lettering or commercial use, or any truck more than 3/4 ton, camper, camping trailer, or other mobile living or recreational vehicle, be stored, parked or kept on any of the Lots for more than eight (8) hours, except in such area or areas as may be designated by the Declarant. Such units shall not be used as living quarters while so stored or parked.

SECTION 6. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other similar household pets may be kept, provided they are not kept, bred, or maintained for any commercial purposes and provided that they do not become a nuisance to other Owners or occupants. No animal shall be allowed outside a dwelling unless under the Owner's control and in his presence.

SECTION 7. No sign or poster of any kind shall be displayed to the public view on any Lot, except a sign advertising the property for sale or rent of not more than three square feet, or a sign used by a builder to advertise the property during construction and sales period of not more than five square feet. This provision shall not apply to signs erected at the entrance to the subdivision.

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SECTION 8. Each Owner shall maintain his or her Lot in neat and orderly fashion.

This responsibility includes :

- a. Not permitting grass to grow in excess of six inches in height;
- b. Controlling and/or correcting any condition on their Lot which result in erosion or sedimentation;
- c. Removal of any dead trees from their Lot; and
- d. Maintaining the exterior appearance of buildings on their Lot in the condition established when initially completed.

It shall be the Owner's responsibility to keep the area between the boundary line of his Lot and the surface of any adjoining road or roads cleared of all brush, tall grasses, weeds, trash, garbage or other waste. All lots shall be kept clear of trash, garbage or other waste.

If the Owner of any Lot fails to perform this covenant, then Declarant, shall have the right to perform any necessary maintenance or clearing and the Owner hereby agrees to reimburse Declarant its costs.

SECTION 9. No Owner, resident or lessee shall install wiring for electrical or telephone installation, radio or television antennae, machines or air conditioning units, etc., on the exterior of any building or structure, or in any way that causes the same to protrude through the walls or the roof of any building or structure, except as authorized by the Declarant.

SECTION 10. An owner shall not park or store inoperative or unlicensed cars, trucks or other vehicles on streets, parking areas, or Lots.

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SECTION 11. A Lot shall not be rented by the Owner for transient or hotel purposes. A transient or hotel purpose means (a) rental for any period less than thirty (30) days; or (b) any rental if the occupants are provided customary hotel services, such as room service for food and beverage, maid service, furnishing laundry and linen, and bellboy service. Other than the above obligations, an Owner of a Lot shall have the right to lease the premises if the lease is made subject to the covenants and restrictions contained in this Declaration.

## ARTICLE V

### COVENANT FOR ASSESSMENTS

SECTION 1. The Association shall:

- a. Maintain the Common Area within the Property, including the private roads serving Lots within the Property;
- b. Pay any utility bills associated with the Common Area;
- c. Arrange for the maintenance of the lawns or exterior of any buildings situate on the Lots in the Property as further described below; and
- d. Exercise architectural control.

SECTION 4. *Assessments.*

- a. The Declarant hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association annual assessments or charges and special assessments for capital improvements as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney fees, shall be a charge on

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the land and shall be a continuing lien upon the property against which such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligations of the person who was the Owner of such Lot at the time when the assessment fell due. (The annual and special assessments payable to the Association are separate and distinct from and shall not be commingled with those payable to the Seasons Trace Single Family Association by Owners on account of their membership in that Association.) The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

b. 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 and the homes situated upon the Properties.

c. The initial annual assessment payable to the Association shall be One Hundred Fifty and 00/100 Dollars (\$150.00) for each Lot situate in the Property. This shall not be increased prior to January 1, 2000. Subsequent to January 1, 2000, the regular annual assessment may be increased by no more than five percent (5%) per year by the Association. Liability for assessments on any Lot shall commence when a Lot is conveyed to an Owner other than the Declarant.

d. In addition to annual assessments authorized above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any

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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 called for this purpose.

e. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

f. The lien of the assessments provided for in this Declaration 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 assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

## ARTICLE VI

### GENERAL PROVISIONS

SECTION 1. *Enforcement.* The Declarant, the Winter Park Owner's Association, Inc., a Virginia non-stock corporation, any Owner, or the Seasons Trace Single Family Association, a Virginia corporation, shall have the right to enforce, by any proceeding at law or in equity, in the Circuit Court of James City County, Virginia, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant, the Association, any owner, or the Seasons Trace Single Family Association to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

SECTION 2. *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

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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 year period by an instrument signed by not less than 80 percent of the Owners, and thereafter by an instrument signed by not less than 65 percent of the Owners. Upon receiving the necessary approval, the document reflecting such amendment shall be executed on behalf of the Association by its duly authorized officers and then recorded.

SECTION 4. *Substitution.* The Declarant shall have the right to assign its powers set forth herein to an association or committee of lot Owners by instrument duly recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia.

SECTION 5. *Seasons Trace Single Family Association.* Each Owner shall be a member of the Seasons Trace Single Family Association, a Virginia corporation and shall comply with its bylaws, including payment of dues properly assessed. Unpaid dues of the Seasons Trace Single Family Association, interest, late charges and collection costs, including reasonable attorneys' fees, shall be liens against the Lot on which they were assessed. Each Owner shall be a member of the Season's Trace Recreation Association.

IN WITNESS WHEREOF, Jamestown Building Corporation, Inc. has caused these restrictions to be executed in its corporate name by its President, with its corporate seal hereunto affixed, on the 23rd day of March, 1999.

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JAMESTOWN BUILDING CORPORATION, INC.

By: [Signature]  
C. Lewis Waltrip, II, President

COMMONWEALTH OF VIRGINIA-At Large  
In the County of James City, to wit:

I, Stuart D. Spier, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that C. Lewis Waltrip, II, President of Jamestown Building Corporation, Inc., whose name is signed to the forgoing writing, bearing the date on the 23rd day of March, 1999, has acknowledged the same before me this 23rd day of March, 1999.

My Commission Expires: 9/30/2000

[Signature]  
Notary Public

The form of these restrictions and the obligations set out herein are approved and accepted, pursuant to Resolution of the Winter Park Owner's Association, and the obligations of said association are hereby accepted on behalf of said association.

WINTER PARK OWNER'S ASSOCIATION

Date: 3/23/99

By: [Signature]  
C. Lewis Waltrip, II, President

COMMONWEALTH OF VIRGINIA-At Large  
In the County of James City, to wit:

I, Stuart D. Spier, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that C. Lewis Waltrip, II, President of the Winter Park Owners Association, whose name is signed to the forgoing writing, bearing date on the 23rd day of March, 1999, has acknowledged the same before me this 23rd day of March, 1999.

My Commission Expires: 9/30/2000

[Signature]  
Notary Public

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We approved and accepted the form of these restrictions and the obligations set out herein, pursuant to Resolution of the SEASON'S TRACE SINGLE FAMILY ASSOCIATION, and the obligations of said association are hereby accepted for said association.

SEASON'S TRACE SINGLE FAMILY ASSOCIATION

Date: 4-11-99

By Gary Balogh  
Gary Balogh, President

COMMONWEALTH OF VIRGINIA-At Large  
In the County of James City, to wit: ..

I, Cardyn A. Murphy, a Notary Public in and for the above jurisdiction, does hereby certify that Gary Balogh, President of the Season's Trace Single Family Association, whose name is signed to the forgoing writing, bearing the date on the 23rd day of March, 1999, has acknowledged the same before me this 11<sup>th</sup> day of April, 1999.

My Commission Expires:

May 31, 2002  
Notary Public

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