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**DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR  
MCPHAIL MEADOWS SUBDIVISION**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "Declaration") is made this the 25 day of January, 2022, by SOUTHEASTERN CONSTRUCTION OF ROCKFISH LLC., a North Carolina corporation, hereinafter referred to as "Declarant";

**WITNESSETH:**

WHEREAS, Declarant is the owner of certain property in the City of Raeford, Hoke County, North Carolina known as MCPHAIL MEADOWS, a R20 subdivision, a plat of which has been duly recorded in Plat Cabinet 4, Slide 4159 Maps 3 of the Hoke County, North Carolina Registry (the "Plat"); and

WHEREAS the Declarant desires to provide for the preservation of the values and amenities and for the maintenance of common properties in said property and under a general plan or scheme of improvement desires to subject said property to the covenants, restrictions, easements, affirmative obligations, charges and liens hereinafter set forth, hereinafter referred to as the "Covenants" or the "Declaration", all of which is hereby declared to be for the benefit of said property and each and every owner of any and all parts thereof; and

WHEREAS, the Declarant deems it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which can be delegated and assigned the power and authority of maintaining and administering the common properties, administering and enforcing these covenants and restrictions and collecting and disbursing all assessments and charges necessary for such maintenance, administration and enforcement; and

WHEREAS, the Declarant has caused to be incorporated under the laws of the State of North Carolina, a non-profit corporation, McPhail Meadows Owners Association, for the purpose of exercising the functions aforesaid, which functions are hereinafter more fully set forth;

NOW THEREFORE, the Declarant declares that the real property depicted on the above-described plat shall be held, transferred, sold, conveyed, given, donated, leased, occupied and used subject to the covenants,

Submitted electronically by "Rebecca F. Person, PLLC"  
in compliance with North Carolina statutes governing recordable documents  
and the terms of the Memorandum of Understanding with  
the Office of the Register of Deeds of Hoke County. NCGS 47-14(a1)(5).

restrictions, conditions, easements, changes, assessments, affirmative obligations, and liens hereinafter set forth. This Declaration and the affirmative and negative burdens of these covenants, shall touch and concern and run with the land herein referred to as the "Property." All rights and easements reserved by the Declarant hereunder shall also be reserved to the assignees and successors in interest of the Declarant.

**ARTICLE I**  
**DEFINITIONS**

(a) "Association" shall mean and refer to McPhail Meadows Owners Association, a North Carolina non-profit corporation, its successors and assigns.

(b) "Board" or "Board of Directors" shall mean those persons elected or appointed and acting collectively as the Board of Directors of the Association.

(c) "Common Properties" or "Common Area") shall mean and refer to those tracts of land with any improvements thereon which are deeded or leased to the Association. All Common Properties are to be devoted to and intended for the common use and enjoyment of the Owners, persons occupying dwelling places or accommodations of Owners on a guest or tenant basis, and visiting members (to the extent permitted by the Board of Directors of the Association) subject to the fee schedules and operating rules adopted by the Association; provided, however, that any lands which are leased by the Association for use as Common Properties shall lose their character as Common Properties upon the expiration of such Lease. Reference to Common Properties in these covenants does not imply or guarantee that the Property affected by these covenants or any future section(s) of McPhail Meadows will have any Common Properties.

(d) " Common Expenses" shall mean and include:

- (1) All sums lawfully assessed by the Association against its members;
- (2) (b) Expenses of administration, maintenance, repair, or replacement of the Common Area, including, without limitation, all labor, services, common utilities, materials, supplies, equipment, costs incurred in acquiring a Lot pursuant to a judicial sale, legal, accounting or managerial fees, and all expenses in connection with the Association's responsibilities under any stormwater management agreement (the "Stormwater Agreement") affecting the Property;
- (3) Expenses declared to be common expenses by the provisions of this Declaration or the Bylaws;
- (4) Hazard, liability, or such other insurance premiums as the Declaration or the Bylaws may require the association to purchase or as the Association may deem appropriate to purchase;
- (5) Ad valorem taxes and public assessment charges lawfully levied against Common Properties;
- (6) The expense of the maintenance of private drainage, utility easements, and drainage swales up to the edge of the roadways and facilities located therein which are within the boundaries of the Property; provided, however that maintenance of drainage easements located within the Lots shall remain the responsibility of the Lot Owners;
- (7) The expense of maintenance of any roads, streets, easements, landscaping, amenities, taxes or any other expense item associated with any Common Property not located on the Property but permitted to be used by the members of this Association by any adjoining landowner, association or other entity pursuant to any cross-easement, cross-access or other agreement by the Association with the adjoining land owner;

(8) Payments into any escrow account required under any Stormwater Agreement, which may include funding of the escrow account prior to a transfer of maintenance and operation responsibilities from Declarant to Association;

(8) Expenses for maintenance of security devices or personnel, if any; and,

(9) Any other expenses determined by the Board or approved by the members to be common expenses of the Association.

(e) "Declarant" shall mean Southeastern Construction of Rockfish LLC., a North Carolina corporation, and its successors and assigns.

(f) "Covenants" or "Declaration" shall mean this instrument as it may be from time to time amended, supplemented, modified or incorporated by reference.

(g) "Lot" shall mean and refer to any numbered plot of land shown upon any recorded subdivision map of the Property, as such map or maps may be from time to time amended or modified, excluding, however, the Common Properties.

(h) "Offensive or Noxious" activity or behavior shall include but not be limited to a public nuisance or nuisance per se and shall also include any behavior or activity which is inconsistent with both the reasonable pleasurable use of the Property area by substantial number of the residents and overnight guests and their reasonable expectations of permanent habitation, vacation meeting, working, recreating, or enjoying sports, music, food, natural surroundings, and entertainment, free of excessively noisy behavior grossly disrespecting the rights of others, flashing or excessively bright lights, racing vehicles, significantly loud radio, hi-fi, electronic music distractions, and other unreasonable behavior curtailing the reasonable pleasure and use of the facilities within or adjacent to the Property. Public musical or other entertainment, parades, concerts, festivals, carnivals, competitions or shows conducted under permit from the Declarant shall not constitute offensive or noxious activity or behavior unless such permit is withdrawn by the Declarant, or its terms and conditions violated.

(i) "Owner" shall mean and refer to the owner as shown by the records in the Register of Deeds of Hoke County, North Carolina, whether it be one or more persons, firms, associations, corporations, or other legal entities, including the Declarant, of fee title to any Lot depicted on the plat of MCPHAIL MEADOWS, but, notwithstanding any applicable theory of a mortgage, shall not mean or refer to the mortgagee or holder of a security deed, its successors or assigns, unless and until such mortgagee or holder of a security deed has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner. In the event that there is recorded in the Office of the Register of Deeds, a long-term contract of sale covering any Lot or parcel of land within the Property, the purchaser under said contract of such Lot or parcel of land shall be the Owner and not the fee simple title holder. A long-term contract of sale shall be one where the purchaser is required to make payments for the property for a period extending beyond twelve (12) months from the date of the contract, and where the purchaser does not receive title to the property until such payments are made although the purchaser is given the use of said property.

(j) "Period of Declarant Control" means the period commencing on the date hereof and continuing until the later of (i) twenty (20) years after the date of the first conveyance of a Lot to an owner other than Declarant; or (ii) when Declarant no longer owns a Lot in McPhail Meadows.

(k) "Property" shall mean and refer to the land as shown on the Plat. "Property" shall also include future sections of McPhail Meadows as the same may be developed from time to time except that such future sections of McPhail Meadows Subdivision shall become subject to these covenants only

from and after the recording of the plat or plats for said future section(s) and the recording of a Supplemental Declaration which incorporates by reference this Declaration and which expressly make the new section(s) subject to these covenants, or portions of same. The Supplemental Declaration may contain such complementary additions and/or modifications of the covenants and restrictions contained in this Declaration as may be necessary or convenient, in the sole judgment of Declarant, to reflect the different character, if any, of the new section, but such modification shall have no effect on the Property described herein.

**ARTICLE II**  
**PROPERTY AND ADDITIONS THERETO**

**Section 1. Property.** The real property which is and shall be held, transferred, sold, conveyed, given, donated, leased and occupied subject to these covenants is defined as the Property above.

**Section 2. Special Declarant Rights.** Declarant reserves the following special declarant rights for the entire Property during the period of Declarant control:

- (a) To complete any and all improvements indicated on the plats and plans;
- (b) To exercise any development right reserved in this Declaration;
- (c) To construct and maintain any sales office, signs advertising the Property or any property which may be added thereto, management office or model on any of the Lots or on any of the Common Properties shown on the plat;
- (d) To use easements through the Common Area for the purpose of making improvements within the Property or any property added thereto; to enter upon the subdivision for access, including ingress and egress for both vehicles and pedestrians, to and from any public street; or to connect at Declarant's expense to any street, roadway walkway or other means of access located on the Common Area;
- (e) To create and add Lots, to alter the size of any Lot, combine or merge two or more Lots, to subdivide Lots or other Property into Common Property, to add Common Area, or to extend streets and utilities through Lots;
- (f) To appoint and remove any officer or member of the Association Board during the period of declarant control;
- (g) To annex any adjacent property developed in conformity with this Declaration;
- (h) To transfer responsibility for any storm water best management practices or facilities affecting the Property to the Association in accordance with any Stormwater Agreement; or
- (i) To approve any supplemental declaration or other declaration of covenants, conditions or restrictions affecting any phase, sub-section or other portion of McPhail Meadows; without member's review and consent, such supplement declaration or other declaration of covenants, conditions or restrictions shall be voidable in the sole discretion of Declarant.

**Section 3. Annexation of Additional Property.** At any time prior to the end of the Period of Declarant Control, additional land may be annexed by the Declarant without the consent of the Members and therefore become subject to this Declaration by the recording by Declarant of a plat showing such property to be annexed and of a supplementary declaration extending the operation and effect of this Declaration to the property to be annexed. Any property annexed pursuant to this subsection may be annexed and subjected to this Declaration as one parcel or as several parcels at different times. The addition of such property pursuant to this section may increase the cumulative number of Lots within the Property and therefore, may alter the relative maximum voting strength of the various types of Members. Any Supplemental Declaration may contain such complementary additions and/or modifications of the covenants and restrictions contained in this Declaration, including, without limitation, different voting rights and different annual and special assessments for the Lots so annexed as Declarant, in its sole discretion, may deem necessary or appropriate to reflect the different character or use of

the property added. A Supplemental Declaration annexing additional property need only be executed by the Declarant and, if applicable, by the owner of the property being annexed, and shall not require the joinder or consent of the Association or any of its Members.

**Section 4. Utilities.** Declarant reserves the right to subject the Property to a contract with public utility provider(s) for the installation of overhead and/or underground electric cables and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to such public utility provider by the owner of each Lot. Declarant may devote any Lot or portion thereof, not already sold, for any construction and uses which it, in its discretion, deems necessary in order to provide the subdivision with utilities.

**Section 5. Utility Easements.** Easements for installation and maintenance for utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage, or which may obstruct or retard the flow of water. All areas indicated as streets and easements on the recorded plat are hereby dedicated to public use for such uses forever except side yard easements which are for the use and benefit of those persons and Lots as described herein.

**Section 6. Easements for Governmental Access.** An easement is hereby established over the Common Area and every Lot within the Property for the benefit of applicable governmental agencies for installing, removing, and reading water meters, maintaining and replacing water and sewer facilities, if any, and acting for other purposes consistent with public safety and welfare, including, without limitation, law enforcement, fire protection, garbage collection and the delivery of mail.

### **ARTICLE III** **RESTRICTIONS**

**Section 1.** All Lots shall be used for residential purposes only and shall not be used for any business or commercial purposes. However, that Declarant reserves the right to use any Lot and any improvement thereon owned by Declarant as a model home with sales office. Group family homes are prohibited.

**Section 2.** All Lots shall be residential lots, and no structure shall be erected, altered, placed or permitted to remain on any of said Lots except one detached single family dwelling of not more than two and one-half stories in height, a private garage for not more than four cars and other outbuildings in the rear of the dwelling house which may be incidental to normal residential use in subdivisions of similar category. No mobile home (Class A or B) or modular home will be allowed on any Lot to which these covenants apply.

**Section 3.** No dwelling shall be erected or allowed to remain on any of the said Lots which shall contain a heated-area living space of less than one thousand seven hundred (1,700) square feet. Heated-area living space shall mean the ordinary living space in a house which is designed and constructed so as to be capable of being heated for regular living use in cold weather. In the computation of floor space, furnace room areas, garages, carports, and porches shall not be counted. No residence or other building, and no fence, wall, utility yard, driveway, solar panel, swimming pool or other structure or improvement, regardless of size or purposes, whether attached to or detached from the main residence, shall be commenced, placed, erected or allowed to remain on any Lot, nor shall any addition to or exterior change or alteration thereto be made, unless and until building plans and

specifications covering the same, showing the nature, kind, shape, height, size, materials, floor plans, exterior color schemes with paint samples, location and orientation on the Lot and approximate square footage, construction schedule, on-site sewage and water facilities, and such other information as the Declarant or the ARC (as hereinafter defined) shall require, including, if so required, plans for the grading and landscaping of the Lot showing any changes proposed to be made in the elevation of surface contours of the land, have been submitted to and approved in writing by the Declarant or by an Architectural Review Committee ("ARC") composed of three or more persons appointed by the Board of Directors of the Association and until a copy of all such plans and specifications, as finally approved by the Declarant have been lodged permanently with the Declarant or the ARC. The Declarant or ARC, as the case may be, shall have the absolute and exclusive right to determine the style and appearance of the dwellings, including, but not limited to flag staffs, fences, walls, buildings outbuildings, garages, storage sheds, lawn decorations, structures of any type or color thereof, grading, landscaping, patio covers and trellises, utility layout, and any other improvements to be built or constructed on any Lot. The Declarant or ARC, as the case may be, shall have the absolute and exclusive right to refuse to approve any such building plans and specifications and lot-grading and landscaping plans which are not suitable or desirable in its opinion for any reason, including purely aesthetic reasons connected with future development plans of the Declarant of said land or contiguous lands. In passing upon such building plans and specifications and lot-grading and landscaping plans, the Declarant or ARC may take into consideration the suitability and desirability of the proposed construction and of the materials of which the same are proposed to be built to the Lot upon which it proposes to erect the same, the quality of the proposed workmanship and materials, the harmony of external design with the surrounding neighborhood and existing structures therein, and the effect and appearance of such construction as viewed from neighboring properties. In the event the Declarant or ARC fails to approve or disapprove such building plans and specifications within thirty (30) days after the same have been submitted to it as required above, the approval of the Declarant or ARC shall be presumed and the provisions of this paragraph shall be deemed to have been complied with.

Section 4. All structures shall comply with (i) the Hoke County ordinances with regard to all set-back requirements and (ii) such set-back requirements as are set forth on the Plat(s) of McPhail Meadows. The building line set-back as provided for in this paragraph may be varied by as much as ten (10) percent with the express consent of Declarant, which said consent document need not be on record in the Office of the Register of Deeds, Hoke County, North Carolina.

Section 5. All walls, fences, and hedges shall be controlled strictly for compliance with this Declaration and architectural standards established by the Declarant or the ARC. No wall, fence, or hedge shall be planted or erected closer to the street on which the house fronts than the rear corner of the house; provided, however, that for houses with screened porches, the fence may attach at either the front or back corner of the screened porch. For corner Lots, no wall, fence, or hedge shall be planted or erected closer to the side street than ten (10) feet from the corner of the house. No fence made of concrete block, chain link, wire, or what is commonly known as "chicken wire" shall be permitted anywhere on the Lot. No wall, fence, or hedge shall exceed six [6'] feet in height. The design and materials of all fences shall be approved by the Declarant or the ARC prior to any construction pursuant to the approval requirements of this Article.

Section 6. No radio or other electrical towers, aerials, antennae, or other devices of any type for the reception or transmission of radio broadcasts or other means of communication shall be erected, constructed, placed or permitted to remain on any Lot or upon any improvements thereon. Satellite dishes not to exceed 22 inches in diameter are permitted only to the rear of the dwelling house.

Section 7. No sign or signs other than a "For Sale" or "For Rent" sign shall be displayed on the property. No political signs whatsoever can be displayed.

**Section 8.** No automobile or other mechanical repairs shall be conducted within a Lot other than in a garage or concealed from public view. No mechanically defective automobile, motor vehicle, mechanical machine, or machinery, shall be placed or allowed to remain on a Lot at any time except in a closed garage. No truck or vehicle used primarily for commercial purposes, including but not limited to those with eighteen wheels (such as a "tractor" or "semi") shall be permitted to be parked on a Lot or the Properties except in the course of delivery, pick up, or discharge of a specific commercial duty. No vehicle in inoperable condition, no unlicensed vehicle, no recreational vehicle, no camper, no golf cart, no boat, and no jet ski or other watercraft may be parked on any street or on any Lot, unless kept inside a garage or behind an approved fence or otherwise concealed from public view. No parked vehicle shall be covered by a "car cover" or other similar covering unless kept inside a garage and concealed from public view. No truck or vehicle, no camper, no RV, no golf cart, no boat, jet ski or other watercraft, and no trailer of any kind may be kept within the Common Area. For the purpose of the preceding sentences, the term "kept" shall mean present for either a period of more than ten (10) hours or overnight, whichever is less. In order to preserve the aesthetics of development, whether or not a boat, trailer, or vehicle of any type is adequately concealed from public view shall be determined by the Association in its sole discretion. The Association shall have the right to tow or remove any boat, trailer, recreation vehicle, camper, jet ski, watercraft, golf cart or vehicle of any type which is parked within the Common Area or kept on any Lot in violation of this section, at the Owner's expense, and the Owner of each Lot, by acceptance of their deed, does grant to the Association such an easement, on, across, and upon their Lot as may be necessary to enforce the provisions set out in this section. All mechanical items above must be in rear yard concealed by an approved fence. RV's may be parked on a concrete pad on side of home no farther forward than front corners of the home.

**Section 9.** No trailer, tent, shack, garage, barn or similar type outbuilding shall be placed, erected or allowed to remain on any Lot without the written consent of Declarant or the ARC, its successors or assigns, nor shall any structure of a temporary character be used as a residence temporarily, permanently or otherwise. Such structure may be placed behind a fence, but cannot be placed in an easement area.

**Section 10.** Each Owner shall maintain all improvements constructed upon such Owner's Lot to the standards of their original construction. Each Owner shall maintain in good condition and repair all improvements constructed upon such Owner's Lot, including, without limitation, the dwelling. Such maintenance obligations include keeping the exterior of all such improvements free of mold and mildew. No Owner shall change the exterior design or color of the dwelling on such Owner's Lot, including the roof thereof, except in compliance with this Article

**Section 11.** No Lot or Common Area shall be used for the storage of rubbish. No trash of any kind, whether household or yard debris, shall be placed or allowed to remain on any Lot, except in proper containers. Containers should only be placed by the street on the evening before the day trash is scheduled to be picked up. Each owner shall promptly remove the trash container from the street, in no case later than the evening of the day the trash was removed.

**Section 12.** It is understood and agreed that these restrictions are made for the mutual benefit of the grantors and grantees and any and all subsequent grantees, and all such parties shall be deemed to have a vested interest in these restrictions and the right to enforce same.

**Section 13.** The invalidation of any one or more or any part of any one or more of the covenants and conditions set forth herein shall not affect or invalidate the remaining covenants or portions thereof

**Section 14.** The maintenance, keeping, boarding and/or raising of animals, livestock, poultry or reptiles of any kind, regardless of number, shall be and is prohibited within any Lot, except the keeping of orderly domestic pets (dogs or cats) shall be permitted; provided, however, that such pets are not kept or maintained for commercial purposes for breeding, and provided, further that any such pet causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the Property. All pets shall be registered and inoculated as required by law. No dangerous or vicious dogs shall be permitted on any Lot.

**Section 15.** Each Lot shall be maintained in a neat condition by the Owner thereof. For the purposes of this Section 14, "Lot" shall include that portion of the property from the outside of the structure on the applicable Lot to the adjacent paved road surface, including any drainage swales located therein. All Lots upon which a dwelling has been constructed ("Improved Lots") must have grass lawns. No gravel or similar type lawns are permitted. For Improved Lots, "neat" shall require, at a minimum, that the front yard of each Lot, and in the case of corner lots, the side of each Lot along the side abutting roadways, be sodded, be regularly cut and fertilized, and that mulched or pinestrawed areas be regularly re-mulched or re-pinestrawed and kept weeded so that its appearance is in harmony with the neighborhood. No Owner shall allow the grass on an Improved Lot to grow to a height in excess of six (6) inches, measured from the surface of the ground. For unimproved Lots, "neat" shall require that the Lot is maintained in a slightly condition, free of debris, rubbish, weeds and high grass and in a prudent and reasonable manner harmonious with that of the other Lots within the subdivision. Owners shall remove all trash from their Lots regularly. Drainage swales will not be altered, piped or filled in without approval from the North Carolina Department of Environment and Natural Resources, Division of Energy, Mineral and Land Resources, or its successor agency.

**Section 16.** If an Owner fails to maintain the Lot or the improvements thereof, the Association, after giving such Owner at least ten (10) days' written notice, shall be authorized to undertake such maintenance at the Owner's expense. By accepting title to his Lot, each Owner shall be deemed to grant access upon the Owner's Lot and dwelling for such purpose and such entry shall not constitute a trespass. If such maintenance is undertaken by the Association or Declarant, the charge therefor and all costs of enforcement and collection shall be secured by a lien against the Lot as provided in this Declaration.

**Section 17.** No plant, object or thing which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways within the triangular area formed by the junction of street curb lines and a line connecting them at points twenty-five (25) feet from the junction of the street curb lines (or extension thereof) shall be placed, planted or permitted to remain on any corner Lots.

**Section 18.** Each Lot Owner covenants and agrees that he will control the noise level emanating from any activities on the lot at a reasonable level. The Lot Owner shall not allow the noise level to become a nuisance or to otherwise interfere with adjoining Owners' reasonable use of their lots.

**Section 19.** Unless otherwise agreed by Declarant, or the ARC, all construction, landscaping or other work which has been commenced on any Lot must be continued with reasonable diligence to completion. No partially completed building or other improvement shall be allowed to exist on any Lot, except during such reasonable period as is necessary for the completion of same.

**Section 20.** If any structure is significantly damaged or destroyed by fire or other casualty, then the Owner thereof shall promptly repair or rebuild said structure or shall promptly raze the damaged improvements and clear all debris from the Lot. If this Section is not complied with, then the Declarant (until the expiration of the Period of Declarant Control) and/or the Association shall have



the right to raze the damaged improvements and clear all debris from the Lot and levy a special assessment to any such Owner for the cost thereof, which shall be a lien upon the Lot until paid in full.

**ARTICLE IV**  
**MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

**Section 1. Membership.** Every Owner shall be a member of the Association. The Declarant acting through its designated officers, employees and agents shall be a member of the Association. In the case of multiple ownership of any Lot in McPhail Meadows subdivision, each Owner shall be a member, subject to such limitations and fees established by the Declarant and Review Board from time to time.

**Section 2. Voting Rights.** The Association shall have one type of regular voting membership. Each Owner shall be entitled to one (1) vote for each Lot which he owns. If a dwelling unit is constructed on more than one (1) Lot, the Owner shall have only one (1) vote so long as such Lot remains a part of the consolidated site.

When any Lot entitling the Owner to membership of the Association is owned of record in the name of two (2) or more persons or entities, whether fiduciaries, joint tenants, tenants-in-common, tenants-in-partnership or in any other manner of joint or common ownership, or if two (2) or more persons or entities have the same fiduciary relationship respecting the same Lot, then the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

**Section 3. Composition of Board.** The Association shall be governed by a Board of Directors consisting initially of no less than one (1) nor more than three (3) persons, with the number in subsequent years to be determined as provided for in the By-Laws of the Association. The Declarant shall have the right to appoint and remove all persons on the Board and to appoint and remove all officers of the Association during the period of Declarant control.

**Section 4. Cumulative Voting Prohibited.** Each Owner shall be entitled to as many votes as equals the number of votes he is ordinarily entitled to multiplied by the number of Directors to be elected but may not cast all of such votes for any one (1) Director and must distribute them among the number to be voted for, and all votes must be cast in whole numbers and not fractions thereof. It is the intent of this Section to prohibit cumulative voting.

**ARTICLE V**  
**PROPERTY RIGHTS IN THE COMMON PROPERTIES**

**Section 1. Owners' Easement of Enjoyment in Common Properties.** Subject to the provisions of these Covenants, the rules and regulations of the Association, and any fees or charges established by the Association, every Owner and every tenant and guest of such Owner shall have a right of easement of enjoyment in and to the Common Properties, over the Common Properties for access, ingress and egress from and to public streets, and walkways; and (iii) for enjoyment of the Common Properties and for parking areas, if any. Such easement shall be appurtenant to and shall pass with the title of every Lot. .

**Section 2. Title to Common Properties.** The Declarant covenants for itself, its successors or assigns, that it shall convey to the Association by limited warranty deed the Common Area prior to the end of the Period of Declarant Control. All said parcels of land may be conveyed to the Association subject to: (1) all restrictive covenants of record at that time, including but by no means limited to

this Declaration; (2) all existing mortgages; (3) a reservation by the Declarant of the right to substitute or add new mortgages thereon; provided, however, that in no event shall the Association be obligated to assume the payment of principal or interest on any such mortgage; and (4) easements reserved by the Declarant herein for special declarant rights.

**Section 3. Extent of Owners' Easement.** The rights and easements of enjoyment created hereby shall be subject to the following:

(a) the right of the Association, in accordance with its Bylaws, to borrow money from the Declarant or any other lender for the purpose of improving and/or maintaining the Common Properties and providing services authorized herein and in aid thereof to mortgage said properties;

(b) the right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosure;

(c) the right of the Association, as provided in its By-laws to suspend the rights and easements of enjoyment of any Owner, or any tenant or guest of any Owner, for any period during which the payment of any assessment against any Lot owned by such Owner remains delinquent, and for any period not to exceed sixty (60) days for any infraction of its published rules and regulations, it being understood that any suspension for either nonpayment of any assessment or a breach of the rules and regulations of the Association shall not constitute a waiver or discharge of the Owner's obligation to pay the assessment; and

(d) the right of the Association to charge reasonable admission and other fees for the use of the Common Properties and any facilities included therein;

(e) the right of the Declarant or the Association by its Board of Directors to dedicate or transfer to any public or private utility, utility easements on any part of the Common Properties;

(f) the right of the Association to give or sell all or any part of the Common Properties, including leasehold interests, to any public agency, authority, public service district, or private concern for such other purposes and subject to such conditions as may be agreed to by the Owners, provided that no such gift or sale or determination as to the purposes or as to the conditions thereof shall be effective unless such dedication, transfer and determination as to purposes and conditions shall be authorized by (i) the Declarant as long as it owns any portion of the Property and (ii) the affirmative vote of three-fourths (3/4) of the votes cast at a duly called meeting of the Association, subject to the quorum requirements established herein and unless written notice of the meeting and of the proposed agreement and action thereunder is sent to every Owner of the Association at least thirty (30) days prior to such meeting. A true copy of such resolution together with a certificate of the results of the vote taken thereon shall be made and acknowledged by an officer of the Association and such certificate shall be annexed to any instrument of dedication or transfer affecting the Common Properties prior to the recording thereof. Such certificates shall be conclusive evidence of authorization by the membership and shall not apply to roads, water, sewer and storm drainage dedicated or deeded to the City of Fayetteville or County of Hoke by the Declarant. The Declarant may make such dedications or conveyances without the members' consent; and (g) the special Declarant rights reserved herein.

**ARTICLE VI**  
**COVENANTS FOR MAINTENANCE ASSESSMENTS**

**Section 1. Creation of the Lien and Personal Obligation of Assessments.** The Declarant, for each Lot owned within the Property, 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: (1) annual assessments for charges which are Common Expenses; (2) special assessments for extraordinary maintenance and capital improvements; (3) special assessments for purchase, construction or reconstruction of improvements; (4) to the appropriate governmental taxing authority, a pro rata share of assessments for public improvement to the Common Properties if the Association shall default in payment thereof; and (5) fines, interest, late fees and other penalties imposed by the Association for the violation of any provisions of this Declaration or other rules and regulations adopted by the Association. The annual and special assessments, together with interest and costs, fines, penalties and reasonable attorney's fees for collection, shall be a charge on the land and shall be a continuing lien upon the Lot 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 Lot at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed by them however, the unpaid assessments and charges shall continue to be a lien upon the Lot against which the assessment or charge was made.

The Association shall also have the authority, through the Board of Directors, to establish, fix and levy a special assessment on any Lot to secure the liability of the Owner thereof to the association arising from breach by such Owner of any of the provisions of this Declaration which breach shall require the expenditure of time and money or both, by the Association for repair or remedy.

Each Owner covenants, for himself, his heirs, successors, and assigns, to pay each assessment levied by the Association on the Lot described in such conveyance to him within ten (10) days of the due date as established by the Board, and further covenants that if said assessment shall not be paid within thirty (30) days of the due date, the payment of such assessment shall be in default and the amount thereof become a lien upon said Owner's Lot as provided herein and shall continue to be such lien until fully paid.

**Section 2. Purpose of Assessments.** The assessments levied by the Association shall be used exclusively for the paying of Common Expenses to promote the recreation, health, safety, and welfare of the Owners of Lots; and, in particular, but not limited to, for the acquisition, improvement and maintenance of services, amenities and recreation and other facilities, if any, and for the use and enjoyment of the Common Properties, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes and public assessments assessed against the Common Properties, the procurement and maintenance of insurance in accordance with the Bylaws or as deemed appropriate by the Board, the employment of counsel, accountants and other professionals for the Association when necessary, and such other needs as may arise.

**Section 3. Amount of Assessment.**

(a) **Initial Assessment.** Until December 31, 2022, the initial regular assessment shall be \$250.00 annually based on the calendar year; such annual assessment for each Lot shall commence at the time of the first conveyance of an improved Lot (the "First Sale"), prorated on a calendar year basis. In addition, each Lot shall be assessed a one time or initial contribution to working capital fee of \$150.00 at the time of the closing of the First Sale. This one-time fee shall not be considered an advance of the regular or annual assessment.

Beginning January 1, 2023 and during the Period of Declarant Control, the Board of Directors shall adopt an annual budget and fix the annual assessment.

After the Period of Declarant Control expires, the Board of Directors shall adopt a proposed budget at least annually. Within 30 days after adoption of the proposed budget, the Board of Directors shall send a copy of the proposed budget and shall give written notice to the Members of a meeting of the Members to consider ratification of the budget, such meeting to be held not sooner than 10 days nor more than 60 days after the mailing of such notice. Such meeting may, but need not be, combined with the annual meeting of the Members. There shall be no requirement that a quorum be present in order to vote on ratification of the budget. The budget shall be deemed ratified unless at that meeting Members having a majority of the votes of the entire membership vote to reject the budget. Notwithstanding the forgoing, if the budget provides for annual assessments not greater than 10% larger than the assessment in effect for the immediately preceding year, such budget shall be deemed ratified unless Members having at least 80% of the votes of the entire membership vote to reject the budget. If the proposed budget is rejected, the budget last ratified by the Members shall be continued until such time as the Members ratify a subsequent budget proposed by the Board. Any annual assessment ratified by the Members shall continue thereafter from year to year as the annual assessment until changed by the Board and ratified by Members as set forth herein. In addition, the Board of Directors, or any adjudicatory panel established by the Board, may levy a reasonable Fine Assessment as a fine or penalty for violation of provisions of this Declaration. In addition, the Board may enact additional fees for late payments, fees for providing written assessment certificates setting forth all current and delinquent assessment charges, and fees to transfer ownership of a Lot upon the Association's records.

Section 4. Special Assessments for Capital Improvements. 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, restoration, repair or replacement of a capital improvement upon the Common Properties, any extraordinary maintenance, including fixtures and personal property related thereto and any property for which the Association is responsible provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the Owners who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Replacement Reserve. Out of the Common Expenses assessment, the Board may create and maintain a reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Properties which the Association may be obligated to maintain.

Section 6. Individual Assessment. In the event that the need for maintenance, repair or replacement of any improvement on the Property, for which the Association has the maintenance, repair and/or replacement obligation, is caused through the willful or negligent act of an Owner, his family, his pet(s), his tenant or his guest, the cost of such maintenance, repairs or replacements shall be paid by such Owner. The Board shall have the maintenance, repair, or replacement done, and the cost thereof shall be provided by the Board to said Owner and shall be paid by said Owner within thirty (30) days thereafter, unless an earlier date is otherwise set forth therein.

Section 7. Notice and Quorum for Any Action Authorized Under Section 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 4 shall be sent to all Owners not less than 10 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of Owners or of proxies entitled to cast fifty-one percent (51%) 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 twenty-five (25%) percent of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

**Section 8. Effect of Nonpayment of Assessments; Remedies of the Association.** Any assessment not paid within thirty (30) days after the due date shall be delinquent, in default and shall bear interest from the due date at the highest rate then permitted by North Carolina law not to exceed eighteen (18%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same plus interest, costs, late payment charges and reasonable attorneys' fees, or foreclose the lien against the Lot. During the period of Declarant Control, in the event that the Association fails to take reasonable steps to collect delinquent assessments from Lot owners, an owner may bring a derivative action for the same purpose upon prior demand upon the Association and reasonable notice. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Properties or abandonment of his Lot. The lien herein granted unto the Association shall be enforceable pursuant to Article 2A of Chapter 45 of the General Statutes from and after the time of recording a Claim of Lien in the Office of the Clerk of Superior Court in the County in which the Property is located in the manner provided therefore by Article 8 of Chapter 44 of the North Carolina General Statutes, which claim shall state the description of the Lot encumbered thereby, the name of the record owner, the amount due and date when due. The claim of lien shall be recordable any time after thirty (30) days after the due date of the assessment or any installment thereof and the lien shall continue in effect until all sums secured by said lien as herein provided shall have been fully paid. Such claims of lien shall include all assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorneys' fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims of lien shall be signed by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record.

**Section 9. Subordination of the Lien to Mortgages and Ad Valorem Taxes.** The lien of the assessments provided for herein shall be subordinate to the lien of any institutional first mortgage and ad valorem taxes on said Lot. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage or tax 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, but shall not abate the personal obligation of the prior owner. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

**Section 10. Exempt Property.** Any portion of the Property dedicated to, and accepted by, a local public authority shall be exempt from the assessments created herein; however, no land or improvements devoted to dwelling use shall be exempt from said assessments.

## **ARTICLE VII**

### **FUNCTIONS OF ASSOCIATION**

**Section 1. Authorized Services.** The Association shall be authorized to provide the following services:

(a) maintenance of the Common Area and shall keep the same in good, clean and proper condition, order and repair, whether or not title to such Common Area has been formally conveyed to the Association; including, without limitation, landscaping, recreation area, storm water structural controls and BMPs under the Stormwater Agreement, if any, located on the Common Area;

(b) payment of all costs, charges and expenses incurred in connection with the operation, administration and management of the Common Area and performance of the services necessary or desirable in the judgment of the Board of Directors of the Association to carry out the Association's obligations and business under the terms of this document;

(c) taking any and all actions necessary to enforce all covenants and restrictions affecting the Property and to perform any of the functions or services delegated to the Association in any covenants or restrictions applicable to the Property, including but not limited to fining Owners for violating same or for not properly maintaining their property;

(d) constructing improvements on Common Properties for use for any of the purposes or as may be required to provide the services as authorized in this Declaration;

(e) provision of administrative services including but not limited to insurance, legal, accounting and financial, and communication services informing Owners of activities, notice of meetings, referendums, etc., incident to the above-listed services, and payment of taxes and other expenses; and

(f) any other services necessary to perform its obligations hereunder.

In the event the Association is unable or unwilling to perform any of the services listed above in a manner satisfactory to the Declarant, the Declarant shall be and hereby is authorized to perform such services, at the Association's expense, as long as such expenses are reasonable and necessary to carry out the Declarant's obligations under this Declaration.

The Association shall be responsible for the provision of liability insurance, any taxes, maintenance of recreation, wet detention basins and other facilities located on the Common Properties, and payment of assessments for public and private capital improvements made to or for the benefit of the Common Properties located within the development. Upon default by the Association in the payment to the governmental authority entitled thereto of any *ad valorem* taxes levied against the Common Properties or assessments for public improvements to the Common Properties, which default shall continue for a period of six (6) months, each Owner of a Lot in the development shall become personally obligated to pay to the tax assessing governmental authority a portion of such taxes or assessments in an amount determined by dividing the total taxes and/or assessments due by the total number of building sites in the development. If such sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot of the then Owner, his heirs, devisees, personal representatives and assigns, and the taxing or assessing governmental authority may either bring an action at law against the Owner personally obligated to pay the same or may elect to foreclose the lien against the property of the Owner.

Section 2. Mortgage and Pledge. The Board of Directors of the Association shall have the power and authority, to borrow money for use by the Association and to mortgage the property of the Association and to pledge the revenues of the Association as security for such loans made to the Association which loans shall be used by the Association in performing its authorized functions. The Declarant may, but shall not be obligated to, make loans to the Association, subject to approval by the Declarant of the use to which such loan proceeds will be put and the method by which such loans will be repaid and subject to a maximum of loan amount approved by the Declarant, at interest rates acceptable to the Declarant. Notwithstanding anything in this Declaration to the contrary, the Association shall not be allowed to reduce the limits of the minimum regular annual assessment at any time there is outstanding any amounts due the Declarant as repayment of any loans made by the Declarant to the Association.

#### **ARTICLE VIII** **DURATION**

The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association, the Declarant or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a period of twenty-five (25) years from the date this Declaration is recorded. Upon the expiration of said

twenty-five-year period this Declaration shall be automatically renewed and extended for successive ten-year periods. The number of ten-year renewal periods hereunder shall be unlimited with this Declaration being automatically renewed and extended upon the expiration of each ten-year renewal period for an additional ten-year period; provided, however, that there shall be no renewal or extension of this Declaration if during the last year of the initial twenty-five -year period, or during the last year of any subsequent ten-year renewal period if three-fourths (3/4) of the votes cast at a duly held meeting of the Association vote in favor of terminating this Declaration at the end of its then current term. It shall be required that written notice of any meeting at which such a proposal to terminate this Declaration is to be considered, setting forth the fact that such a proposal will be considered, shall be given each Owner at least thirty (30) days in advance of said meeting. In the event that the Association votes to terminate this Declaration, the President and Secretary of the Association shall execute a certificate which shall set forth the resolution of termination adopted by the Association, the date of the meeting of the Association at which such resolution was adopted, the date that notice of such meeting was given, the total number of votes of Owners of the Association, the total number of votes required to constitute a quorum at a meeting of the Association, the number of votes necessary to adopt a resolution terminating the Declaration, the total number of votes cast in favor of such resolution, and the total number of votes cast against such resolution. Said certificate shall be recorded in the Register of Deeds for Hoke County, North Carolina, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration.

#### ARTICLE IX AMENDMENTS

During the period of Declarant Control, Declarant reserves the right to alter or amend this Declaration without the consent or joinder of any other Owner or the Association. Otherwise, this Declaration may be amended as set forth in N.C.G.S. §47F-2-117.

#### ARTICLE X NOTICES

Section 1. How Notice Given. Any notice required to be sent to any Owner under the provisions of the Declaration shall be deemed to have been properly sent, and notice thereby given, when mailed, with the proper postage affixed, to the last known address of the person or entity who appears as Owner on the Association's books, on the first day of the calendar month in which said notice is mailed.

Section 2. Notice to Co-Owners. Notice to one (1) of two (2) or more co-owners of a Lot shall constitute notice to all co-owners.

Section 3. Notice Where Address or Ownership Changed. It shall be the obligation of every Owner to immediately notify the Secretary of the Association in writing of any change of address. Any person who becomes an Owner following the first day in the calendar month in which said notice is mailed shall be deemed to have been given notice if notice was given to his predecessor-in-title.

#### ARTICLE XI ENFORCEMENT, SEVERABILITY AND INTERPRETATION

Section 1 Means of Enforcement. Enforcement of these Covenants shall be by any proceeding at law or in equity, whether it be to restrain violation or to recover damages or to create any lien created by these Covenants.

**Section 2. Severability.** Should any covenants and restrictions herein contained, or any ARTICLE, Section, paragraph, sentence, clause, phrase or term in this Declaration be declared to be void, invalid, illegal, or unenforceable for any reason by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no wise affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

**Section 3. Interpretation.** In all cases, the provisions of this Declaration shall be given that interpretation of construction which will best result in the consummation of the general plan of development of the Property. The provisions of these Covenants shall be given full force and effect notwithstanding the existence of any zoning or similar ordinance which allows a less restricted use of the Property.

**Section 4. Authorized Action.** All action which the Association is allowed to take under this instrument shall be authorized actions of the Association if approved by the Board of Directors of the Association in the manner provided for in the By-Laws of the Association unless the terms of this instrument provide otherwise.

**Section 5. Trespass.** Whenever the Association, and/or the Declarant are permitted by these Covenants to correct, repair, clean, preserve, clear out or do any action on any property or on the easement areas adjacent thereto, entering the property and taking such action shall not be deemed a trespass.

**Section 6. Conflict.** In the event of any conflict between the provisions of this Declaration and any applicable provisions of the Hoke County Zoning or Subdivision Ordinances, the provisions of the Hoke County Zoning or Subdivision Ordinances shall control.

[SIGNATURES BEGIN ON NEXT PAGE]



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

SOUTHEASTERN CONSTRUCTION OF ROCKFISH LLC

(Owner of Lots 1-8, 10-27)

By: \_\_\_\_\_

Name: Jeffrey Wright

Title: owner

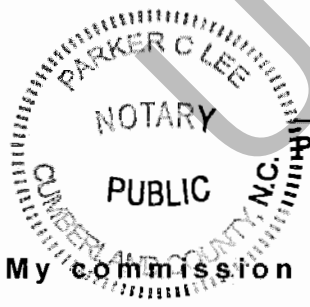
STATE OF NORTH CAROLINA

CUMBERLAND COUNTY

I certify that the following person(s) personally appeared before me this day and I have personal knowledge of the identity of the principal(s) or have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a driver's license or a credible witness has sworn to the identity of the principal(s); each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Name of Principal: Jeffrey Wright

Date: 1/25/2022

\_\_\_\_\_  
Notary Public



Parker C. Lee  
Printed or Typed Name of Notary Public

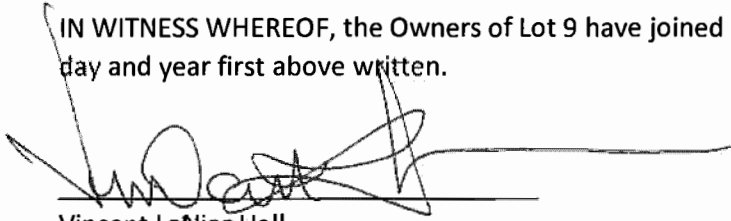
My commission expires: 5/7/2024

(Affix notarial stamp or seal)

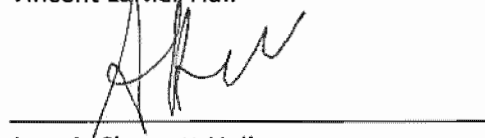
(Signatures Continue on Next Page)

Joining in on the execution of these Covenants are Vincent LaNier Hall and wife, Artavia Sharvett Hall, who are the owners of Lot 9 via that certain deed recorded in Book 1414, Page 532, of the Hoke County Registry. The Owners of Lot 9 consent to the Covenants and grant unto Declarant, its successors and or assigns, all of the rights, easements, and obligations reserved under the Covenants.

IN WITNESS WHEREOF, the Owners of Lot 9 have joined in the execution of the Covenants, effective the day and year first above written.

  
\_\_\_\_\_

Vincent LaNier Hall

  
\_\_\_\_\_

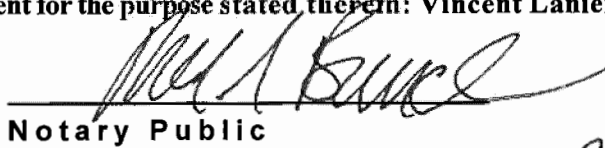
Artavia Sharvett Hall

STATE OF NORTH CAROLINA

CUMBERLAND COUNTY

I certify that the following person(s) personally appeared before me this day and I have personal knowledge of the identity of the principal(s) or have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a driver's license or a credible witness has sworn to the identity of the principal(s); each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein: Vincent Lanier Hall and Artavia Sharvett Hall

Date: 12/1/2021

  
\_\_\_\_\_  
Notary Public

**DONALD S BUNCE**  
Notary Public  
Cumberland County, NC

Donald S Bunce

Printed or Typed Name of Notary Public

My commission expires: 11/09/2022