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Franklin County North Carolina
Brandi S Brinson, Register of Deeds
BK **2299** PG **995 - 1001 (7)**

PREPARED BY AND RETURN TO McFARLANE LAW OFFICE, PA, P.O. BOX 127, LOUISBURG NC 27549

NORTH CAROLINA

FRANKLIN COUNTY

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR TAR RIVER ESTATES SUBDIVISION PHASE III

THIS DECLARATION is made this 8 day of April, 2022, by Mapleville Farms, LLP, a North Carolina Limited Partnership, hereinafter "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property located in Franklin County, North Carolina, which is more particularly described herein but which is known generally as "Tar River Estates, Phase III"; and

WHEREAS, Declarant desires to provide for the preservation and enhancement of the property values, amenities and opportunities in said community and for the maintenance of the properties and the improvements thereon , and to that end desires to subject the real property described herein, together with any and all such additions as may hereafter be made thereto, to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property an each owner thereof; and

WHEREAS, Declarant has deemed it advisable to create an organization to own, maintain and administer the Common Elements, including, without limitation, to administer and enforce covenants and restrictions exclusively appliable to the Subdivision, and to collect and disburse the assessments and charges hereinafter created, and Declarant has therefore incorporated or will incorporate under North Carolina law as a nonprofit corporation to be known as Tar River Estates Homeowners Association, Inc., for the purpose of exercising the aforesaid functions; and

WHEREAS, Declarant desires to impose easements, covenants, conditions and restrictions upon all of the Property. The Property made subject to his Declaration is specifically described as follows:

Being all of Lot 25, and Lots 32 through 61 as shown on "Subdivision Survey for Tar River Estates, Phase III", prepared the 23rd day of November, 2021 by Piedmont Surveys, Inc., surveyor, and recorded or to be recorded in the Office of the Register of Deeds of Franklin County, North Carolina.

The property shall be owned, held, leased, transferred, sold, mortgaged and/or conveyed by Declarant and each Owner subject to this Declaration and the controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens set forth in this Declaration.

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

1. LAND USE AND BUILDING TYPE. All lots shall be used for single family residential purposes. No structure shall be erected, altered, placed or permitted to remain on any lot other than one detached, single-family dwelling, not to exceed two and one-half (2 ½) stories in height, and a private garage for not more than three (3) cars, and other out-buildings incidental to residential use of the lot. No singlewide mobile homes shall be permitted. Doublewide manufactured homes and modular homes are permitted.

2. DWELLING SIZE. The minimum heated square footage of a dwelling may not be less than 1,200 square feet with a 10% variance being allowed only if Builder/Owner obtains prior written approval of Declarant.

3. BUILDING SETBACK/HOUSE LOCATION. No dwelling shall be erected or maintained on any lot within the setback prescribed by Franklin County Planning and Zoning, or as shown on the recorded Plat referenced above, whichever is more restrictive. For purposes of these building setback requirements, decks, porches, patios, stoops, eaves, overhangs, bay windows, chimneys, carports and other similar projections shall be deemed to be part of the dwelling only to the extent that the same are deemed to be part of the dwelling under the zoning ordinances of Franklin County as of the date said ordinances exist on the date of issuance of a certificate of occupancy for such dwelling. Any dwelling erected on a lot other than a corner lot shall face the street on which the lot abuts. On corner lots, a dwelling may be erected so as to face the intersection of the two streets on which the lot abuts, or the street to which the driveway serving the dwelling is connected.

4. FENCES. No fence or wall shall be erected on any lot closer to any street than the back side of the house. Nothing in this paragraph shall be deemed to apply to or regulate retaining walls built for the purpose of preventing erosion as necessary due to the grade or slope of any lot or lots, nor shall anything in this paragraph apply to any fence installed by the Declarant at any entrance to or along any street within the subdivision. No fence shall be installed until Declarant approves said fencing. Failure to obtain approval prior to fence installation shall be a violation of these covenants and shall subject the property owner to fines and/or assessments.

5. TEMPORARY STRUCTURES. No residence of a temporary nature shall be erected or allowed to remain on any lot, and no trailer, mobile home, shed, shack, tent, garage, barn or any other building of a similar nature shall be sued as a residence on any lot, either temporarily or permanently.

6. PARKING/DRIVEWAYS AND PARKING PADS/ABANDONED VEHICLES. Vehicles may be parked or stored only on portions of a lot improved for that purpose, i.e., garage, driveway, carport or parking pad. No unenclosed parking shall be constructed or maintained on any lot except a paved or gravel driveway and/or attached paved or gravel parking pad, which pad shall be designed for the parking of not more than three (3) vehicles. Any driveway or parking pad constructed upon any lot shall have either an asphalt/concrete surface, a cement/concrete surface, stone/brick pavers, or consist of gravel. If gravel, there shall be a solid perimeter of concrete, treated wood or stone enclosing the driveway or pad to contain the gravel.

   No vehicle of any type which is abandoned or inoperative shall be stored or kept on any lot in such as manner as to be seen from any other lot, any street within the subdivision or the Common Area, and no automobiles or mechanical equipment may be dismantled or allowed to accumulate or be stored on any lot.

7. ANIMALS. No animals, livestock or poultry of any kind shall be kept or maintained on any lot or in any dwelling or structure, except that dogs, cats or other common household pets may be kept or maintained provided that they

are not kept or maintained for commercial purposes. Such household pets shall be kept indoors or within a fenced area, including electronic fencing sufficient to contain said animals, or otherwise secured so that they are unable to leave the owner's property, other than with a leash or under the owners direct, physical control. Common household pets shall not be deemed to include any animals which are known to be a danger to persons or other household pets, whether as a characteristic of the breed or by documented history.

8. NUISANCES/BUSINESS ACTIVITIES. No noxious, offensive or disruptive trade or activity shall be carried out upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No business trade or activity may be conducted on any lot.

9. SIGNS. No sign of any kind shall be displayed to the public view on any lot except signs used by the Declarant to advertise lots for sale during the construction and sale period, one sign of not more than six (6) square feet advertising the property for sale or rent, one builder sign, and signs of not more than six (6) square feet expressing support of or opposition to political candidates or other issues which will appear on the ballot of a primary, general or special election, provided that such political signs shall not be placed on a lot earlier than sixty (60) days before such election and shall be removed within two (2) days after such election. No signs will be permitted which contain foul, profane or abusive language or which advocate for the denial of civil rights to any citizen or resident.

10. ANTENNAS/SATELLITE DISHES OR DISCS. No radio or television transmission or reception tower or antenna shall be erected on any lot or rooftop. No satellite disc in excess of eighteen (18) inches in diameter shall be installed which is visible from the street or any lot within the subdivision.

11. SWIMMING POOLS. No above-ground swimming pools shall be permitted in the subdivision, except in the back yard behind the residential dwelling, unless approved by Declarant in writing. Any such swimming pool shall be fully enclosed within a fence with a locked or child-proof gate, no less than five (5) feet in height. Nothing contained herein shall be deemed to apply to an inflatable wading pool no more than ten (10) inches deep.

12. MAINTENANCE OF LOT/CONSTRUCTION. Each owner shall keep his or her lot in an orderly condition and shall keep the improvements thereon in a suitable state of repair . In the event that any residence or structure on any lot is destroyed or partially destroyed by fire, Act of God or as a result of any other act or thing, the owner of such lot shall repair the damage or destruction; provided, however, that if the structure damage Is not part of or attached to the residence constructed on such lot, the owner may, at his option, either completely remove the damaged structure and landscape the area on which the structure stood, or repair/reconstruct/replace said structure.

    All construction, landscaping or other work which has been commenced on any lot shall be continued with reasonable diligence to completion and no partially completed house or other improvement shall be permitted to exist on any lot, except during such reasonable time period as is necessary for completion. The owner of each lot shall at all times keep contiguous public streets free from any dirt, mud, garbage, trash or other debris resulting from any such construction on his or her lot.

13. GARAGE/UTILITY STORAGE. All trash and rubbish shall be kept in securely closed garbage cans stored behind the house in such a manner as not to be visible from the street upon which the house fronts. No trash, rubbish, stored materials, wrecked or inoperable vehicles or similar unsightly items shall be allowed to remain on any lot; provided, however, that the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish and other debris for collection by governmental or privately contracted garbage and trash removal services. In the event of curbside trash and/or garbage pickup, trash and/or garbage cans may be moved to the street on the night before the scheduled pickup, but all garbage cans must be returned to an approved enclosure the night of the scheduled pickup/

14. EXTERIOR MAINTENANCE. The owner of each lot shall maintain the grounds and improvements on his or her lot, including, but not limited to, plantings, landscaping and lawns, at all times in a neat and attractive manner.

15. UTILITY AND DRAINAGE EASEMENTS. Easements for the installation, maintenance and repair of utilities and drainage facilities are reserved as shown on the recorded plat. Within such easements, no structure, plantings or other material shall be place or permitted to remain which may interfere with the installation and maintenance of the utilities, or which may change the direction of flow or otherwise impede or restrict the flow of water through the drainage channels within such easements. Any easements located on a lot shall be maintained continuously by the owner of such lot, except for any such improvements for which a public authority or utility company is responsible. Declarant reserves the right to crate and impose additional easements or rights-of-way over any unsold lot or lots by the recording of appropriate instruments in the Franklin County Register of Deeds office, and such instruments shall not be construed to invalidate any of these Covenants.

    Declarant reserves an easement in and right at any time in the future to grant a ten (10) foot right-of-way over, under and along the rear line of each lot for the installation and maintenance of poles, lines, conduits, pipes and other equipment necessary to or useful for furnishing electric power, gas, telephone service, cable television or other utilities, including water, sanitary sewage service and storm drainage facilities. Declarant also reserves an easement in and right at any time in the future to grant a five (5) foot right -of-way over, under and along the side lines of each lot for the aforementioned purposes.

    Declarant and/or Declarant's assigns shall be responsible for maintaining any open space or Common Areas (including any subdivision entryway and/or signage, or central mail facilities) and all drainage easements. The cost for such maintenance shall be at the expenses of all lot owners in equal proportion.

16. SUBDIVISION OF LOTS. No lot shall be subdivided by sale or otherwise so as to reduce the total lot area shown on the recorded map or plat, with the exception of a subdivision of a lot which combines a portion of said lot with the lots located immediately adjacent to said lot, such that then entire subdivided lot becomes part of the adjacent lots.

17. STREET LIGHTING. Declarant reserves the right to subject the property to a contract for installation of street lighting, which requires a continuing monthly payment by each residential owner, whether included with or in addition to any regular HOA dues obligation.

18. ENFORCEMENT. Enforcement of these Covenants shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant herein, and enforcement shall be either to restrain the violation or recover damages resulting therefrom, or both, including reasonable attorneys' fees.

19. SEVERABILITY. Invalidation of any one or more of these Covenants by judgment or Court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

20. MAILBOXES. Declarant reserves the right to install one or more centralized mail facilities, to be located within the subdivision at a place and size as determined by the Declarant for the benefit of all lot owners within the subdivision.

21. TERM. These Covenants shall run with and bind the land and all owners thereof for a period of twenty-five (25) years from the date these Covenants are recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless altered or amended as set forth below. These Covenants may be amended at any time by an instrument signed by the then-owners of not less than seventy-five percent (75%) of

the lots. Declarant, so long as it owns one or more lots or any common area, may amend these Covenants without the approval or joinder of any other lot owners at any time during the first twenty-five (25) years.

22. DECLARANT. Nothing contained in these Covenants shall be construed to prohibit development of the lots or the subdivision by Declarant so long as said development follows the general plan of development previously approved by Franklin County. The restrictions contained herein shall not be deemed to apply to any sales office, construction trailer, model home or other temporary improvement installed by or placed with the approval of Declarant.

23. ROADS. Declarant shall maintain the roads within the subdivision until such time that the North Carolina Department of Transportation accepts the road or roads into the State-Maintained road system for public maintenance and use.

24. HOMEOWNERS ASSOCIATION. The following rules and regulations shall govern the Homeowners Association and its members.
    a. Membership. Every owner of a lot shall be a member of the HOA and shall be subject to an assessment. Membership shall be appurtenant to and may not be separated from ownership of a lot which is subject to assessment.

    b. Voting. Every lot owner shall be entitled to one vote per lot owned. Married couples, joint owners of any kind or corporate entities, including corporations, LLCs, Trusts, Estates, Partnerships, etc., shall collectively be deemed a single owner for voting and dues purposes. In the event two or more lots are recombined, or a lot is subdivided and a portion combined with another lot, the resulting recombined lot shall nevertheless be deemed a single lot for voting and dues purposes.

    c. Leasing. If any owner of a lot leases said lot to a tenant for residential purposes, said lease shall contain (or shall be conclusively deemed to contain) the following provision: "Tenant shall obey, adhere to and be bound by all provisions of the Declaration of Covenants for Tar River Estates Subdivision Phase III recorded in the office of the Register of Deeds of Franklin County, North Carolina. Both tenant and owner understand and agree that they shall be jointly and severally liable for any violation of same by tenant." Notwithstanding the foregoing, no residence may be leased or otherwise made available for short-term occupancy such as VRBO, Airbnb, etc., unless during the entire time of said short-term occupancy the lot owner also occupies said residence.

    d. Lien for Assessments. Each owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the HOA (1) annual assessments or charges and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, late charges, costs and reasonable attorneys' fees shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, late charges, costs and reasonable attorneys' fees shall also be the personal obligation of the owner of the property at the time when the assessment came due. The personal obligation for delinquent assessments shall not pass to an owner's successors in title unless expressly assumed by them. However, the lien for such assessments shall survive the transfer of ownership. The Declarant, its successors and assigns are exempt from any annual or special assessments. It is the intent of the Declarant that any monetary fines imposed against an owner shall constitute a lien against the lot of said owner to the same extent as if such fine was an assessment against the lot.

e. Purpose of Assessments. The assessments levied by the HOA shall be used exclusively to promote the welfare of the residents in the subdivision, for the improvement and maintenance of the common area, any central mail facilities, the entryway and signage related to the subdivision, the maintenance of the roads, the maintenance and operation of any subdivision lighting in public spaces, BMP elements, creation and maintenance of any utility and drainage easements and for the establishment of adequate reserves for future capital improvements, if any, to any of the above, the payment of necessary insurance premiums, payment of local ad valorem property taxes or similar governmental charges, if any, and any other expense for which the HOA is responsible, including the cost of labor, equipment, materials, management and supervision of contractors, employees, agents, attorneys, accountants and similar persons to act on behalf of the HOA, the payment of principal and interest on funds borrowed for HOA purposes and any such other needs as may arise and which are duly authorized by the HOA.

f. Budget and Reserves. The HOA shall establish an annual budget and shall establish and maintain adequate reserve funds for the purposes set forth in Subsection (e) above.

g. Assessment Amount and Due Date. The initial amount of the annual assessment shall be Fifty Dollars ($50) per lot, per year. This shall be due as of January 1 of each year. An owner who purchases a lot from the Declarant shall pay the prorated amount of the annual assessment within ten (10) days of said purchase, based on the date the new owner's Deed is recorded at the Register of Deeds office, to cover the remainder of the calendar year. Any annual assessment which is not received by the HOA within ten (10) days of the date it is due shall include a late fee of Twenty-Five Dollars ($25). The amount and due date of any special assessments shall be as established by the HOA at the time the HOA votes to collect such special assessments.

Any annual or special assessment that is not paid within thirty (30) days after it is due shall accrue interest as of the due date at the rate of eighteen percent (18%) per annum until paid in full. Any lien filed to enforce the collection of any annual or special assessment may include interest, costs and reasonable attorneys' fees as allowed by law.

The HOA may bring legal action against the owner personally for any annual or special assessment and all late fees, interest, costs and reasonable attorneys' fees. The HOA may also file and foreclose upon the lien for these charges, pursuant to Article 2A of Chapter 45 of the North Carolina General Statutes as a Claim of Lien against the property of the owner who is delinquent, to be signed by an officer of the HOA, and the contents of these Covenants in the public record shall be deemed sufficient evidence of indebtedness for this purpose. No owner may waive or otherwise escape liability for any assessments provided for herein by virtue of not being present in the subdivision, not utilizing the common area or other public features of the subdivision, or purported abandonment of owner's lot. The HOA may also suspend the voting privileges of any owner who is more than thirty (30) days late on payment of any annual or special assessment.

h. Subordination of Lien to Mortgages. The lien for annual or special assessments as described herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, the sale of or transfer of any lot pursuant to a mortgage foreclosure or any similar proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer of any kind shall relieve the lot owner who owned the lot at the time such assessments were due of personal liability therefore, nor shall any sale or transfer operate to relieve the subsequent owner of liability for any assessments which are due at or after the time said owner acquires the lot.

i. <u>Notice and Quorum for HOA Meetings</u>. Meetings of the HOA Board need not be noticed to the membership, but minutes of any such meeting shall be kept and made available to any member upon request. Member meetings of the HOA shall be held with thirty (30) days' notice in writing to all members. Member meetings shall require a minimum of fifty percent (50%) of all eligible members to be present in person or by proxy to constitute a quorum for voting purposes. For any meeting in which a quorum is not present, another meeting may be noticed in the same manner as the first meeting, at which meeting the quorum requirement shall be reduced to forty percent (40%) of all eligible members. If a quorum is still not present, further meetings may be noticed in the same manner and the quorum requirement shall be reduced to 30%, 20%, 10%, etc. at each successive meeting until a quorum is present.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed as of this 8 day of April, 2022.

MAPLEVILLE FARMS, LLP, DECLARANT

BY: William Thomas Wester
William Thomas Wester, General Partner

STATE OF NORTH CAROLINA, COUNTY OF Nash

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he/she signed the foregoing document [print name(s)]:

William Thomas Wester, General Partner of Mapleville Farms, LLP

SUSAN S. BELL
NOTARY
PUBLIC
NASH COUNTY, NC

Date of Notarization: 4/8/22

Notary Public Signature

My commission expires: 10/11/22
(date)

<====== Print Notary Name Here

Notary Stamp/Seal