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Pitt County, NC
Lisa P. Nichols REG OF DEEDS

BK 4552 PG 274 - 294

(Above Space for Recorder's Use)

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1698 E. Arlington Blvd., Greenville, NC 27858

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
MONTEVALLO SUBDIVISION, SECTION ONE, PHASE TWO**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR MONTEVALLO SUBDIVISION, SECTION ONE, PHASE TWO is made on the date hereinafter set forth by MONTEVALLO CORPORATION, a North Carolina corporation (hereinafter referred to as "Declarant):

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property located in Pitt County, North Carolina, which is more particularly described on **Exhibit A** attached hereto and made a part hereof by reference (hereinafter sometimes referred to as the "Property").

WHEREAS, Declarant desires to provide for the maintenance and upkeep of the common area located within certain portions of Montevallo Subdivision, Section One, Phase Two (the "Subdivision") and to provide for enforcement of covenants and restrictions applicable to the Subdivision, and, to that end, desires to subject all of the property within the Subdivision, and such additional property as may hereafter be annexed into the development, 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 and each owner thereof;

WHEREAS, Declarant has deemed it advisable to create an organization to own, maintain and administer the Common Area (as hereinafter defined), to administer and enforce covenants and restrictions applicable to the Subdivision, and to collect and disburse the assessments and charges hereinafter created, and
submitted electronically by "Colombo Kitchin Dunn Ball & Porter, LLP"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Pitt County Register of Deeds.

Declarant has therefore incorporated under North Carolina law as a non-profit corporation, Montevallo #2 Homeowners' Association, Inc., for the purpose of exercising the aforesaid functions; and

WHEREAS, as additional phases of Montevallo are developed, some may be subjected to restrictions in addition to those set forth herein. The Association shall, if necessary, establish a separate budget and levy separate assessments to cover the additional cost, if any, of maintaining and enforcing such additional restrictions.

NOW, THEREFORE, Declarant declares that the Property and such additions thereto as may hereafter be made pursuant to Article II hereof, is and shall be owned, held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration, all of which shall run with the real property and be binding on all parties owning any right, title or interest in said real property or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I DEFINITIONS

Section 1. "Association" shall mean and refer to Montevallo #2 Homeowners' Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

Section 2. "Common Area" shall mean and refer to any and all real property, together with any improvements thereon, and personal property owned by the Association for the common use and enjoyment of Owners. Common Area shall also include, for purposes of maintenance, operation, repair and improvements, all landscaped berms installed by Declarant (even though the berm may be located on individual Lots), one or more mail kiosks, storm water detention facilities located on or connected with the Property described on **Exhibit A** and any additions thereto as provided in this Declaration.

Section 3. "Declarant" shall mean and refer to Montevallo Corporation. It shall also mean and refer to any person, company or entity to whom or which Declarant shall assign or delegate the rights and obligations of Declarant by an assignment of Declarant's rights recorded in the applicable public registry for Pitt County, North Carolina.

Section 4. "Development Period" means the period commencing on the date on which this Declaration is recorded in the Pitt County Register of Deeds and terminating on the earlier to occur of (i) when Declarant no longer owns a Lot in the Subdivision; (ii) the date that Declarant relinquishes in writing Declarant's right to appoint Directors; or (iii) the occurrence of the date ten (10) years from the date of recording the Declaration,

renewable for an additional ten (10) year period with the consent of a majority of Lot Owners other than the Declarant.

Section 5. “Lot” shall mean and refer to any plot of land, with delineated boundary lines, shown on any recorded subdivision plat of the Properties, with the exception of any Common Area owned in fee by the Association and any public street rights-of-way shown on such recorded plat. In the event that any Lot is increased or decreased in size by recombination or resubdivision through recordation of new subdivision plats, any newly-platted Lot shall thereafter constitute a Lot.

Section 6. “Member” shall mean and refer to every person or entity who or which holds membership in the Association.

Section 7. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having an interest in a Lot solely as security for the performance of an obligation.

Section 8. “Properties” shall mean and refer to the property described in **Exhibit A** to this Declaration and any additional property annexed pursuant to Article II of this Declaration.

Section 9. “Unit” or “Dwelling” shall mean and refer to any building or portion thereof within the Properties which is designated and intended for use an occupancy as a residence by a single family, whether by the Owner of such Unit or by tenants or lessees of such Owner.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed, used and occupied subject to this Declaration as of the date of recording hereof, which is within the jurisdiction of the Association, is described on **Exhibit A** attached hereto and incorporated herein by reference.

Section 2. Annexation of Additional Property. At any time prior to December 31, 2050, 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. Furthermore, at any time Declarant owns any Lot within the Properties, 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 must be contiguous to property already subject to this Declaration. 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 Properties and, therefore, may alter the relative maximum voting strength of the various types of Members.

A supplementary declaration may contain such complementary additions to and 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 or Units so annexed, as Declarant, in its sole discretion, may deem necessary or appropriate to reflect the different character or use of the property added. In no event, however, shall any supplementary declaration revoke, modify or add to the covenants and restrictions established by this Declaration so as to materially and adversely affect any portion of the Properties already subject to this Declaration. A supplementary 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.

Nothing contained in this Article shall be construed to obligate or require Declarant to make any additions to the Properties.

Section 3. Conveyance of Common Area in Annexed Property. Promptly upon request of Declarant, the owner of the annexed property shall convey any or all Common Area located within the newly annexed property to the Association or, if requested by the Declarant, to the Declarant. Title to such Common Area shall be conveyed in the same manner as set forth in Section 3 of Article IV of this Declaration.

Section 4. Merger. Additional property may also be made subject to this Declaration by merger or consolidation of the Association with another *non-profit* corporation formed for the same or similar purposes. The surviving or consolidated association shall administer the covenants and restrictions established by this Declaration within the Properties and the covenants and restrictions established upon property owned by the other association as one scheme. No such merger or consolidation shall cause any revocation, change or addition to this Declaration.

Section 5. Effect of Addition of Property. Except by amendment of this Declaration as provided in Section 3 of Article IX hereof, no addition of property, whether by annexation, merger or consolidation, shall revoke or modify any provision of this Declaration as to the Properties already subject hereto or diminish the rights of the Owners of Lots and Units within the Properties, except for the dilution of voting strength that occurs as a result of inclusion of additional Members of the Association.

Section 6. Withdrawal of Property. Declarant reserves the right to amend this Declaration so long as it has a right to annex Additional Property pursuant to this Article for the purpose of removing any portion of the

Properties then owned by Declarant or the Association from the coverage of this Declaration, to the extent originally included in error or as a result of any changes whatsoever in the plans for the Subdivision, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Subdivision.

Section 7. Good Faith Lender's Clause. Any violation of these covenants, conditions or restrictions shall not affect any lien or deed of trust of record held in good faith, upon any Lot, which liens may be enforced in due course, subject to the terms of this Declaration.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

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

Section 2. Classes of Membership. The Association shall have two (2) classes of Membership:

- (a) Class A Members. Every person, group of persons, or entity which is a record Owner of a fee interest in any Lot within the Property, shall automatically be a Class A Member of the Association except the Declarant during the Development Period; provided, however, that any such person, group of persons or entity who holds such interest solely as security for the performance of an obligation shall not be a Member. Class A Membership shall be appurtenant to and may not be separated from ownership of any Lot that is subject to Assessment. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. In the event that more than one person, group of persons or entity is the record Owner of a fee interest in any Lot, then the vote for the membership appurtenant to such Lot portion shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. In the event agreement is not reached, the vote attributable to such Lot shall not be cast.
- (b) Class B Members. The Class B Member during the Development Period shall be the Declarant. The Class B Membership shall cease and be converted to Class A membership upon the expiration of the Development Period.

Section 3. Voting Rights. Each Member shall have one vote with respect to each Lot owned by such Member, but a Class A Member shall not be entitled to exercise any vote until the expiration of the Development Period.

ARTICLE IV
PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment and Access. Except as limited by the provisions of this Section 1 and by the rules and regulations adopted by the Board of Directors of the Association, every Owner shall have a right and easement of enjoyment in, use of and access to, from, and over the Common Area, which right and easement shall be appurtenant to and shall pass with title to every Lot, subject to:

(a) the right of the Association to suspend the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid, or for a period not to exceed sixty (60) days for any infraction of the published rules and regulations of the Association.

(b) the right of the Association to dedicate, sell or transfer all or any part of the Common Area to any public or quasi-public agency, authority or utility for such purposes and subject to such conditions as may be agreed upon by the Members. After all Lots have been conveyed by the Declarant, no such dedication or transfer shall be effective unless the Members entitled to at least 80% of the votes of the entire membership of the Association and at least three-fourths (3/4) of the votes agree to such dedication, sale or transfer and signify their agreement by a signed document recorded in the applicable public registry for Pitt County, North Carolina. Nothing herein shall be deemed to prohibit the Board of Directors of the Association, without consent of the Members, from granting easements over and across the Common Area to any public agency, authority or utility for the installation and maintenance of sewerage, utility (including cable television) or drainage facilities when, in the opinion of the Board, such easements are necessary for the convenient use and enjoyment of properties within the Subdivision. Notwithstanding anything herein to the contrary, the Common Area shall be preserved for the perpetual benefit of the owners of Lots within the Subdivision and shall not be conveyed except to a governmental entity or another nonprofit corporation organized for similar purposes.

(c) the right of the Association, to borrow money, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of any such lender or mortgagee shall be subordinate to the property rights of the Members and the Association as set forth herein.

(d) the right of the Association to exchange all or part of the Common Area for other property and consideration of like value and utility.

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

(f) the right of the Association to adopt, promulgate and enforce rules and regulations concerning the use of the Common Area.

(g) the right of the Association to otherwise deal with the Common Area as provided in the Articles of Incorporation and Bylaws of the Association.

Section 2. Delegation of Use. The right and easement of enjoyment and access granted to every Owner by Section 1 of this Article may be exercised by members of the Owner's family who occupy the residence of the Owner, to his tenants, contract purchasers, guests, invitees or licensees.

Section 3. Conveyance of Common Area To The Association. No later than the time Declarant no longer exercises voting control over the Association as provided in Article III hereof, Declarant shall convey, and the Association shall accept, fee simple title to all Common Area (except Common Area easements) within the Properties, and shall reserve for or grant to the Association all Common Area easements, all subject to such easements, reservations, conditions and restrictions as then may be of record, and the Association shall accept all such conveyances, grants and reservations, provided, however, that so long as Declarant owns any Lots within the Properties, Declarant reserves an easement over and across any Common Area deeded to the Association for the purpose of constructing and maintaining any improvements on the Common Area as it deems necessary or advisable, provided that any such improvements must comply with the requirements of the appropriate governmental authority. Any improvements placed on the Common Area by Declarant shall become the property of the Association upon completion of such improvements.

Section 4. Regulation and Maintenance of Common Area and Common Area Easements. It is the intent of the Declarant that the Common Area be preserved for the perpetual benefit of the Owners.

(a) Regulation of Common Area. The Association may adopt and promulgate rules and regulations governing the use of the Common Area by Owners and their family, guests and invitees. No Owner or other permitted user shall use the Common Area or any portion thereof in violation of the rules and regulations contained in this Declaration or subsequently adopted by the Association.

Without limiting the generality of the foregoing, no Owner or tenant, guest or invitee of an Owner shall, without the specific prior written consent of the Association: (i) damage or waste the Common Area or improvements thereon or remove any trees or vegetation therefrom; (ii) erect any gate, fence, structure or other improvement or thing on the Common Area; (iii) place any garbage receptacle, trash or debris on

Common Area; (iv) fill or excavate any part of the Common Area; (v) landscape or plant vegetation on Common Area; or (vi) use the Common Area or any part thereof in a manner inconsistent with or in any way interfering with the rights of other Owners.

(b) Rights and Responsibilities of the Lot Owners as to Common Area Easements. Each Owner of a Lot upon which a Common Area easement lies shall pay all property taxes and other assessments levied against his Lot, including that portion of such tax or assessment as is attributable to such Common Area easement.

(c) Rights and Responsibilities of the Association as to Common Area. The Association shall have the right and obligation to ensure that the Common Area is preserved for the perpetual benefit of the Owners, and, to that end, shall: (i) maintain the Common Area in its natural or improved state, as appropriate, and keep it free of impediments to its use by the Owners, subject to the provisions of this Declaration; (ii) procure and maintain adequate liability insurance covering the Association and its Members, Directors and officers, against any loss or damage suffered by any person, including the Owner of the Lot upon which Common Area lies, resulting from use of the Common Area; (iii) procure and maintain adequate hazard insurance covering the real and personal property owned in fee by the Association; and (iv) pay all property taxes and other assessments levied against all Common Area owned in fee by the Association.

(d) Declarant's and Association's Right of Entry. The Declarant and the Association and the employees, agents, contractors and subcontractors of each, shall have a nonexclusive right and easement at all times to enter upon any portion of a Lot reserved or designated as a Common Area easement for the purposes of: (i) installing and maintaining subdivision entrance signs, features, fencing and landscaping; and (ii) making such improvements to the Common Area; and (iii) maintaining the Common Area easement in its natural or improved state.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of a 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 and special assessments, such assessments to be established and collected as hereinafter provided. All assessments which are unpaid when due, together with interest and late charges set forth in Section 9 of this Article V and all costs of collection, including reasonable attorney's fees, shall be a charge against and, a continuing lien upon the Lot against which such assessment is made. Each such assessment or charge, together with interest and costs of collection,

including reasonable attorneys' fees, shall also be the personal or corporate obligation of the person(s), firm(s) or corporation(s) owning such Lot at the time when the assessment fell due, but such personal obligation shall not be imposed upon such Owner's successors in title unless expressly assumed by them. Although unpaid assessments and charges are not the personal obligation of such Owner's successors in title unless expressly assumed by them, the unpaid assessments and charges shall continue to be a lien upon the Lot against which the assessment or charge was made.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Subdivision and, in particular, for: (i) acquisition, improvement and maintenance of properties, services and facilities related to the use and enjoyment of the Common Area; (ii) repair and reconstruction of improvements on, the Common Area, including, without limitation, the cost of repair, replacement and additions thereto and the cost of labor, equipment, materials, management and supervision thereof; (iii) payment of taxes and public assessments levied against the Common Area owned by the Association in fee; (iv) procurement and maintenance of insurance in accordance with the Section 4(c) of Article IV of this Declaration; (v) employment of attorneys, accountants and other persons or firms to represent the Association when necessary; (vi) payment of principal and interest on funds borrowed for Association purposes; (viii) such other needs as may arise; and (ix) payment for the maintenance and operation of street lights.

Section 3. Basis and Maximum of Annual Assessments. Each Owner shall bear a proportionate share of common expenses in the percentage which the total number of Lots owned by the Owner bears to the total number of Lots subject to this Declaration. The annual assessment, of which the common expense comprises a part, shall be borne in the same proportion. The maximum annual assessment shall be established by the Association and may be increased or decreased by the Association, as necessary.

Section 4. Special Assessments. In addition to the annual assessments, the Association may levy, in any assessment year, special assessments for the purpose of defraying, in whole or in part, the cost of any construction, repair or replacement of a capital improvement on the Common Area, including fixtures and personal property related thereto, for repayment of indebtedness and interest thereon, or for any other purpose.

In addition to the annual assessments, the Association may create a working reserve fund to be collected at the time of purchase from the declarant, for the purpose of defraying, in whole or in part, the cost of any construction, repair or replacement of a capital improvement on the Common Area, including fixtures and personal property related thereto, for repayment of indebtedness and interest thereon, or for any other purpose.

Section 5. Assessment Rate; Collection Period. Except as provided in Section 6 of this Article V, the annual and special assessments shall be fixed at a uniform rate for all Lots in each phase of the development and

may be collected on a yearly, semi-annually, quarterly or monthly basis, as determined by the Board of Directors.

Section 6. Declarant's Assessments. Notwithstanding any other provision of this Declaration, the Articles of Incorporation or the Bylaws of the Association, the Declarant shall not be obligated for, nor subject to, any annual or special assessment for any Lot or other property that it owns within the Properties.

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 Members not less than fifteen (15) days nor more than thirty (30) days prior to the meeting. At such meeting, the presence of Members, in person or by proxy, entitled to cast fifty (50%) percent of the votes of the entire membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and if called for a date not later than sixty (60) days after the date of the first meeting, the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

Section 8. Date of Commencement of Annual Assessments; Amount of Initial and Subsequent Annual Assessments; Certificate of Payment. Unless a different commencement date is set by the Board of Directors, the annual assessments provided for herein shall commence as to all Lots in any phase on the first day of the month following the conveyance of a Lot or Unit within that phase to an Owner other than the Declarant.

At least thirty (30) days before January 1 of each year, the Board of Directors shall fix the amount of the annual assessment against each Lot. At least fifteen (15) days before January 1 of each year, the Board of Directors shall send written notice of such assessment to every Owner subject thereto. The due dates for the payment of annual and special assessments shall be established by the Board of Directors.

The Association shall, upon demand, and for such reasonable charge as the Board of Directors may determine, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. If such certificate states that an assessment has been paid, such certificate shall be conclusive evidence of payment.

Section 9. Effect of Nonpayment of Assessments; Remedies. An assessment not paid within ten (10) days after the due date shall incur such late charge as the Board of Directors may from time to time establish, and, if not paid within thirty (30) days after the due date, shall also bear interest from the due date at the rate of eighteen percent (18%) per annum or the highest rate allowed by law, whichever is less. The Association may bring an action at law or in equity against the Owner personally obligated to pay the same and/or foreclose the lien against the Lot for which such assessment is due. Interest, late payment charges, reasonable attorneys' fees, and the costs of such action or foreclosure shall be added to the amount of

such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non- use of the Common Area or by abandonment of his Lot.

Section 10. Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinate to the lien of any first mortgage or first mortgage on a Lot. Sale or transfer of a Lot shall not affect any assessment lien; however, the sale or transfer of a Lot pursuant to foreclosure of a first mortgage, or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of any assessment which became due prior to the date of such conveyance. No such sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof; but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage.

Section 11. Exempt Property. All property dedicated to and accepted by a public authority and all property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. Notwithstanding the foregoing, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VI EASEMENTS

Section 1. Access and Utility Easements. Easements for the installation and maintenance of driveways, walkways, water, gas, telephone, cable television and electric power transmission lines, sanitary sewer and storm water drainage facilities, and for other public utility installations are reserved as shown on the recorded plats of the Properties. The Association may reserve or grant easements over the Common Area as provided in Article IV, Section 1(b), of this Declaration. Within any such easement herein provided, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation or maintenance of the utilities installed thereon, or which may change the direction of flow or drainage of water through drainage pipes or channels constructed in such easements.

For a period of thirty (30) years from the date hereof, Declarant reserves, for itself and its employees, agents, successors and assigns, an easement upon and a right of ingress, egress and regress on, over and under the Properties for the purposes of constructing and maintaining water, sewer, gas, storm water drainage and retention, telephone, cable television, and electric, and other utility facilities to the extent required by any applicable governmental entity or deemed by the Declarant to be necessary or convenient for the development, use and enjoyment of the Properties and the Common Area and for the conduct of construction, sales and marketing activities. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil or take any other similar action that it deems reasonably necessary or appropriate.

After such action has been completed, Declarant shall grade and seed the affected property and otherwise restore the affected property to its original condition to the extent practicable, but shall not be required to replace any trees, bushes or shrubbery necessarily removed. Declarant shall give reasonable notice of its intent to take such action to each Owner whose Lot is affected.

Section 2. Easements for Governmental Access. An easement is hereby established over the Common Area and every Lot within the Properties for the benefit of applicable governmental agencies for installing, removing, and reading water meters, maintaining and replacing water and sewer facilities, 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.

Section 3. Association's Easement and Right of Entry. The Association, for itself and its employees, agents, contractors, subcontractors and invitees, shall have a perpetual access easement over each Lot to the extent reasonably necessary to perform the maintenance to be performed by the Association.

Section 4. Easement Over Common Area. A perpetual, non-exclusive easement over the Common Area is hereby granted to each Lot and its Owners, family members and tenants of such Owners, the occupants of such Lot, and guests and invitees of such Owners, tenants or occupants, for the purpose of providing access, ingress and egress to and from streets, parking areas and walkways serving the Properties.

ARTICLE VII

RIGHTS AND RESPONSIBILITIES OF THE ASSOCIATION

Section 1. Responsibilities. The Association, subject to the rights of the Owner set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and shall keep the Common Area in good, clean and proper condition, order and repair. The Association shall be responsible for the payment of all costs, charges and expenses incurred in connection with the operation, administration and management of the Common Area and the performance of its other obligations hereunder. The Association shall operate and maintain areas designated by the Declarant as Common Areas, whether or not title to such areas has been formally conveyed to the Association. The Association shall also be responsible for enforcement of the covenants and restrictions contained in this Declaration.

Section 2. Manager. The Association may employ and pay for the services of a person or entity, including the Declarant (the "Manager"), to assist the Association in managing its affairs and carrying out its responsibilities hereunder and such other persons or entities, including attorneys and accountants, as the Association deems necessary or advisable, whether such persons or entities are engaged, furnished or employed by the Manager or directly by the Association. The Association may enter into a Management Agreement for

such management services upon such terms as the Board of Directors may deem appropriate. The payment of management fees due to the Declarant may, at Declarant's option, be deferred until such later date as Declarant, in its sole discretion, deem appropriate. Furthermore, any management fees due to Declarant may, at Declarant's option, be credited against any assessments due or to be coming due from the Declarant.

Section 3. Personal Property for Common Use. The Association may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise, subject to such restrictions, if any, as may from time to time be provided in the Articles of Incorporation or Bylaws of the Association.

Section 4. Insurance; Bonds. The Association shall procure and maintain adequate liability insurance covering the Association. The Association shall also procure and maintain full replacement value hazard insurance on real and personal property owned by the Association, and shall procure and maintain officers', directors' and employees' liability insurance, and such other insurance as it deems necessary or advisable. The premiums for such insurance shall be a common expense paid from the annual assessments provided in Article V of this Declaration. The Association may cause any or all persons responsible for collecting and disbursing monies of the Association to be bonded.

Section 5. The Association may exercise any other right or privilege and take any action authorized by this Declaration, the Association's Articles or Bylaws, or the North Carolina Nonprofit Corporation Act, as from time to time amended, and every other right or privilege reasonably necessary to effectuate the exercise of any right or privilege or the taking of any action authorized herein or therein.

ARTICLE VIII

ARCHITECTURAL CONTROL AND USE RESTRICTIONS

Section 1: General. No site preparation, building, fence, wall, storm door or window, mail box, greenhouse, room or other structure shall be commenced, erected or maintained upon the Properties (which specifically includes Lots owned by individual owners), nor shall any exterior addition to or change or alteration therein be made until plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Declarant during the Development Period, and thereafter, by either the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board (the "Architectural Control Committee"). In the event that the Declarant, the Board, or its designated committee, as applicable, fails to approve or disapprove

such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval is deemed to be granted and this Article will be deemed to have been fully complied with.

Section 2: Outbuildings. Any outbuildings may be prefabricated or site-built, must receive prior approval from the Association, and be located within an approved privacy fence in the rear yard of the lot a minimum of ten (10) feet behind the front elevation of the home. The outbuilding exterior must either (i) have exterior siding which matches the main residence on the lot, or (ii) have an all-white vinyl exterior. Outbuilding roofs shall be (i) shingles which match the main residence on the lot, or (ii) factory painted metal in gray, black, or white. Any outbuilding must be constructed or placed a minimum of five (5) feet off of the property line, and any outbuilding located in a side street yard must be twenty (20) feet off of the side street property line. All local governmental ordinances or regulations concerning outbuildings will also apply.

Section 3: Landscaping. If the rear yard is fenced with an approved fence, the Owner of said property may plant and landscape said rear yard as said Owner desires. Any planting in the front yard, or in a rear yard which is not fenced with an approved fence shall be subject to the prior approval of the Declarant during the Development Period, and thereafter, by either the Board of Directors of the Association, or the architectural committee, as applicable.

Section 4: Solar Panels. In the event that a Lot owner wishes to install a solar panel on a Lot, then the location thereof shall be subject to the prior approval of the Declarant during the Development Period, and thereafter, by either the Board of Directors of the Association, or the architectural committee, as applicable. The foregoing notwithstanding, in no event will a solar panel be permitted on the front elevation of a house.

Section 5: Front Roof Elevation. In no event will any satellite dish, solar panel or other fixture of any kind be permitted on the front elevation of a house.

Section 6: No Flag Poles. No flag poles will be permitted on any Lot.

Section 7: Land Use and Building Type. The Property shall be known, described and restricted to residential purposes only, and no structures shall be erected, placed or permitted to remain on said property other than one single-family dwelling (which may include an attached garage or carport for not more than two cars) and non-attached outbuildings to be constructed incidental to the residential use of the property. All structures must be approved by the Declarant during the Development Period, and thereafter, by either the Board of Directors of the Association, or the Architectural Control Committee, as applicable.

Section 8: Dwelling Size. The interior heated floor area of any dwelling constructed on any lot on the property, exclusive of open porches and garages, shall not be less than one thousand six hundred (1,600) square feet.

Section 9: Setbacks. All setbacks shall be in accordance with the applicable municipal ordinances as the same may be amended from time to time; provided, however, that if the municipal ordinance is less restrictive, then no Dwelling shall be located nearer to the front lot line or side street line than twenty (20) feet. No Dwelling shall be located nearer than eight (8) feet to any other side lot line. All outbuildings must meet the setbacks set forth above. No privacy fence shall be located nearer than ten (10) feet from a side street property line (excluding easements and road right-of-way). In addition to the foregoing, an approved privacy fence shall be subject to the setback requirements set forth herein.

Section 10: Landscape Maintenance. The landscaping upkeep and maintenance of the areas of each individual Lot in its entirety shall be the duty and responsibility of each individual Lot owner.

Section 11: Nuisances. No noxious or offensive trade or activity shall be carried on upon the Property, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood, and no condition shall be permitted or allowed to exist on the Property which is or may become an annoyance or nuisance to the neighborhood. No portion of a Lot or any structure thereon shall be used for business, manufacturing or commercial purposes, except as set forth herein below, nor shall any animals, fowl or merchandise be kept or allowed to remain on a Lot for commercial purposes, nor shall anything be done on a Lot which is a nuisance or an annoyance to the community.

Nothing in this section shall be deemed to prohibit a home office so long as all business activity occurs solely via the telephone or internet.

Section 12: Temporary Structures. No structure of a temporary nature, including but not limited to a trailer, mobile home, modular building, tent or shack shall be erected on any Lot. This section shall not prohibit an outbuilding constructed incidental to the Dwelling so long as it has been approved by the Declarant during the Development Period, and thereafter, by either the Board of Directors of the Association, or the Architectural Control Committee, as applicable, pursuant to the terms hereof.

Section 13: Signage. No sign of any kind shall be displayed to the public view on this property except one sign of not more than eight (8) square feet advertising the property for sale, or signs used by a builder, developer, realtor, or owner to advertise the property during construction and when for sale.

Section 14: Animals. No animals, livestock, poultry, or reptiles of any kind shall be raised, bred, or kept on any Lot, except that no more than three (3) domesticated dogs from a non-aggressive breed and no more than three (3) domesticated cats may be kept by the owner of the property. All animals should be on a leash at all times when outside of the home or placed within a fenced area approved as provided in Section 12 herein. No kennels, private or commercial, may be located on the property, and no animals located on the property will be kept or used for breeding or maintained for any commercial purpose. No animals should be allowed to roam

free or placed on a chain. For the purposes of this Article 9, the following breeds of dog are defined as “aggressive” and, are therefore, prohibited: Pit Bull, Rottweiler, Doberman, Great Dane and St. Bernard.

Section 15: Trash Disposal. No lot shall be used or maintained for outside storage of bulk items such as building materials or any other items, or as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition and shall, except on trash pickup days, be located in the back yard of a lot in an area not visible from the street in front of the dwelling.

Section 16: Outdoor Structures and Vehicles. No outside clothes lines, motorcycles, supplies, tractors, boats, trucks (other than one pick-up truck rated three-quarter ton or less), trailers, vans (except one non-commercial van owned and operated on a regular daily basis by the owner-occupants of the Lot and Dwelling in question), campers or other equipment or vehicles, except for operative automobiles, shall be regularly parked, stored or placed in any area on a Lot except inside the Dwelling’s enclosed garage. Parking on the street is strictly prohibited. All outdoor equipment and accessories on a Lot, such as play structures, shall be concealed by approved privacy fence or approved in writing as compatible and harmonious with the surroundings by the Declarant during the Development Period, and thereafter, by either the Board of Directors of the Association, or the Architectural Control Committee, as applicable.

Section 17: Privacy Fences. No privacy fence shall be constructed, built or erected on any Lot, except for a privacy fence constructed of vinyl or PVC materials. The location, design and color of any proposed privacy fence must be approved by the Declarant during the Development Period, and thereafter, by either the Board of Directors of the Association, or the Architectural Control Committee, as applicable, prior to construction, and all municipal fence permits must be obtained. All privacy fences must be landscaped with shrubbery or vegetation along the outside of any privacy fence facing the front of the residential dwelling or any side street. All privacy fences must be installed with the finished side facing outside the Lot. In addition, all privacy fences must be installed in accordance with the following guidelines:

- a. A privacy fence must be constructed a minimum of ten (10) feet behind the front elevation of the residence located on the Lot.
- b. Subject to the limitation contained subsection (a) immediately above, all privacy fences must be installed abutting the property lines of a Lot except for the following limited circumstances: (i) privacy fences located on a corner Lot must comply with all applicable municipal ordinances regarding side street setbacks, and (ii) privacy fences must not impede the usage and maintenance of drainage or utility easements, and as a result, all such easements must be located outside of a privacy fence.

- c. The owner of any Lot where a privacy fence has been installed abutting the property line hereby grants an easement to the adjoining Lot owner to tie into the privacy fence. Each of the adjoining Lot owners also grant easements to one another for the installation, maintenance, repair and replacement of their respective privacy fences.

Section 18: Pools. Any pools placed on the property must be in-ground and located in the back yard area of the Lots. All pool must be enclosed with a privacy fence approved by the Declarant during the Development Period, and thereafter, by either the Board of Directors of the Association, or the Architectural Control Committee, as applicable.

Section 19: Telecommunication Devices. No outside radio or television satellite dish antenna shall be erected on any residential Lot within the Subdivision, except there may be one (1) dish-type antenna not exceeding eighteen (18) inches in diameter on each Lot. Any such permitted satellite dish antenna shall be located on the rear roof of the Dwelling, on a pole attached to the structure, not exceeding five (5) feet in total height, or at ground level if not attached to a structure. All such antennae mounted at ground level or on a pole shall be located in the rear yard area of each Lot. No communication device, transmitting tower or antenna exceeding the height of five (5) feet from ground level, shall be placed, used, or erected on any Lot within the Property, either temporarily or permanently, and same shall not be permitted to exist on the property.

Section 20: Garage Doors. All garage doors shall be kept closed at all times except when entering or exiting the garage.

Section 21: Leases. Any lease agreement between a Lot owner and a lessee for the lease of such owner's Lot shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association and all rules and regulations promulgated by the Association pursuant to the Declaration, and that any failure by the lessee to comply with the terms of such document shall be a default under the terms of the lease. All leases of Lots shall be in writing and shall have a term of not less than six (6) months.

Section 22: Reservation of Rights. For the purpose of providing for access from the property to any adjacent or surrounding lands, the Declarant hereby retains the right to utilize any portion of the Property for the installation of roads, drives or other necessary means of access to such adjacent or surrounding lands, and the installation of such means of access by Declarant over any Lot presently located within the Property as shown by any recorded map shall not constitute a violation of these restrictive covenants. Nothing herein contained shall be construed as imposing any covenants or restrictions on any property of the Declarant of this subdivision other than those properties to which these restrictive covenants specifically apply, the Declarant reserving the

right to develop other sections of the subdivision in other fashion or for other purposes. The rights reserved in this paragraph are assignable by the Declarant.

ARTICLE IX
GENERAL PROVISIONS

Section 1. Enforcement. The Association or any Owner shall have the right to enforce, by proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Further, the Board of Directors shall have the right to record in the appropriate land records a notice of violation of this Declaration or the Bylaws of the Association, or any rules, regulations, use restrictions, or design guidelines promulgated by the Association and to assess the cost of recording and removing such notice against the Owner in violation of the Declaration.

Section 2. Severability. Invalidation of anyone of these covenants or restrictions by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect.

Section 3. Amendment. For so long as Declarant owns any Lot or Unit within the Properties, this Declaration may be amended by the Declarant, without the consent or joinder of any other Owner or the Association. Any such amendment shall be effective upon recording of same in the applicable public registry for Pitt County, North Carolina. No amendment shall be binding upon any Lot or Owner until fifteen (15) days after a copy of such amendment has provided to such Owner.

The covenants and restrictions of this Declaration, and any amendments thereto, are appurtenant to and shall run with and be binding upon the Properties and the Owners thereof for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless terminated or amended by a vote of the Owners as set forth below.

This Declaration may be amended during the first thirty year period by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots and terminated during the first thirty year period by an instrument signed by the Owners of not less than eighty percent (80%) of the Lots, and thereafter amended by an instrument signed by the Owners of not less than sixty-seven percent (67%) of the Lots or terminated by an instrument signed by the Owners of not less than eighty percent (80%) of the Lots. Amendment or termination shall be by written instrument signed by the appropriate persons or entities and

recorded in the applicable public registry for Pitt County, North Carolina, and upon recordation, shall be binding on all Lots and Units within the Properties and the Owners thereof, without regard to whether the Owner of such Lot voted for or against or signed or did not sign the amendment.

Section 4. Interpretation. Headings used herein are for indexing purposes only and shall not be used as a means of interpreting or construing any provision hereof. Unless the context otherwise requires, the use herein of the singular shall include the plural and vice versa; the use of one gender shall include all genders; and the use of the word "including" shall mean "including, without limitation". This Declaration and the provisions thereof shall be construed and enforced in accordance with the laws of the State of North Carolina.

Section 5. Subdivision of Lots. No Lot within the Subdivision may be subdivided by sale or otherwise so as to reduce the total Lot area shown on the recorded plat, except by or with the consent of the Declarant and, if required, by the appropriate governmental authority.

Section 6. Declarant's Right to Change Development. With the approval of the appropriate governmental authority, and subject only to such terms and conditions as said authority may impose, Declarant shall have the right, without consent or approval of the Owners, to create Lots and Units, add Common Area, and reallocate Lots or Units within the Properties.

Section 7. Protective Covenants for Lots, Common Areas and Home Site. Nothing herein shall affect the Declarant's right to establish, from time to time, appropriate additional covenants for the development of Lots, Common Areas and home sites for attached or detached Dwellings.

IN WITNESS WHEREOF, the Declarant has duly executed this instrument on this the 15th day of August, 2024.

MONTEVALLO CORPORATION

By: Leo A. Venters
Leo A. Venters, President

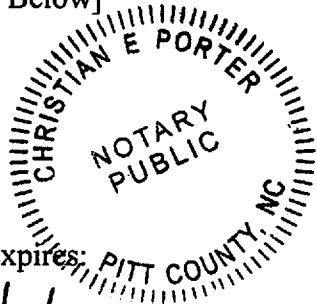
STATE OF NORTH CAROLINA

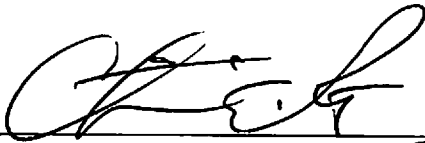
COUNTY OF Pitt

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: LEO A. VENTERS, President of Montevallo Corporation

Witness my hand and Notary Seal this the 15th day of August, 2024.

[Affix Notary Seal Below]



Notary Signature: 

Notary Print Name: Christian E. Porter
Notary Public

My Commission Expires:

2/6/2028

EXHIBIT A

All those certain lots or parcels of land lying and being in Pitt County, North Carolina and being more particularly described as follows:

All of Lots 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, and 96 of Montevallo, Section 1, Phase 2 as the same are shown on that certain plat dated May 23, 2024, prepared by Stroud Engineering, P.A. and entitled "MAP FOR RECORD MONTEVALLO SECTION 1, PHASE 2" and being recorded in Map Book 92, Page 97 in the office of the Pitt County Register of Deeds.

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