

COPY

ESTABLISHMENT OF  
THE HAMMOND FAMILY TRUST  
DATED April 6, 2021

**ARTICLE ONE**  
**Establishment of the Trust**

JOHN D. HAMMOND, of Henderson County, North Carolina, declares that:

**Section 1.01 Identity of the Trust**

The trust shall be known as "THE HAMMOND FAMILY TRUST DATED April 6, 2021"

To the extent practical, for the purposes of transferring property to the trust or identifying the trust in any beneficiary or pay on death designation, our trust should be identified as "The Hammond Family Trust dated April 6, 2021, and any amendments thereto."

**Section 1.02 Conveyance to Trust**

Any person may transfer property to our trust in any manner authorized by law.

This trust will be funded by a deed conveying real property to the Trust.

The corpus of this trust may be increased by conveyance to the Trustees named in this declaration.

**Section 1.03 Identity of Trustmaker.**

As used in this Declaration of Trust:

1. The term "Trustmaker" shall refer to John D. Hammond;
2. The term "Beneficiary" shall refer to anyone or any charitable organization herein identified as entitled to the proceeds of this trust upon distribution of the Trust assets.
6. The term "Trustee" shall also include and may be referred to as "the

fiduciary."

#### **Section 1.04 Designation of Trustee.**

1. John D. Hammond is hereby designated as Trustee of all Trusts created by or to be created pursuant to this Declaration of Trust.

2. Should John D. Hammond become unable because of death, incompetence or any other cause, to serve as a Trustee, Betty J. Hammond, shall thereafter serve as trustee of all Trusts created pursuant to this Declaration of Trust.

3. Any successor Trustee provided for in this Article, shall, immediately succeed to all title of the Trustee to the trust estate and to all powers, rights, discretions, obligations, and immunities of the Trustee under this Declaration with the same effect as though such successor were originally named as Trustee in this Declaration.

4. The term "Trustee" as used in this Declaration shall refer to the sole Trustee or the unanimous action of the Co-Trustees as the case may be.

5. No bond shall be required of any Trustee designated in this instrument.

#### **Section 1.05 Additions to Trust.**

The Trustmaker may from time to time add property acceptable to the Trustee to the Trust by conveyance, assignment, transfer, life insurance beneficiary designation, or Will. Such property when received and accepted by the Trustee shall become part of the Trust and be subject to all the terms and provisions of this Declaration of Trust.

#### **Section 1.06 Amendment and Revocation**

During the life of the Trustmaker this trust shall be fully revocable and subject to amendment by the Trustmaker except as limited by the other provisions of this trust.

### **ARTICLE 2**

#### **Provisions of the Trust**

### **Section 3.01 Distribution of Trust Property**

The primary purpose of this Trust is to hold real estate and to provide for the sale and distribution of sale proceeds for said real estate.:

**The real property located at Mastermind Lane in Henderson County North Carolina bearing PIN No. 9579486832** shall be held by the trust until a buyer for the property is found. The Trustee shall not agree to any sale of the property where the gross proceeds of the sale do not equal at least fifty thousand (\$50,000.00) per acre for the Trust Property.

John Demerritt Hammond shall retain a life estate in the aforementioned Trust property PIN No. 9579486832 that he may hold and/or convey separate and apart from any conveyance of Trust property by the Trustee of this Trust.

**The real property located dear Low Gap Road in Henderson County North Carolina PIN No. 0610341747** shall be held by the trust until such time as the beneficiaries of the trust agree, in writing, to sell the property or divide the property and distribute it from the trust.

Upon the sale of any of the aforementioned real property, the net proceeds of the sale shall be distributed as follows:

1/3 to John D. Hammond. If he dies prior to the sale or distribution, his share shall go to his heirs, successors, and assigns.

1/3 to Elizabeth Jean Hammond Holmstedt. If she dies prior to the sale or distribution, his share shall go to her heirs, successors, and assigns.

1/3 to Laura Jane Hammond Garnett. If she dies prior to the sale or distribution, his share shall go to her heirs, successors, and assigns.

## **ARTICLE 4**

### **Trustee Powers and Further Trust Provisions**

Except as modified by the preceding paragraphs, The Trustee is vested with the following powers with respect to the Trust estate and any part of it, in addition to those powers now or hereafter conferred by law:

### **Section 4.01 Retain Original Property.**



To retain for such time as the fiduciary shall deem advisable any property, real or personal, which the fiduciary may receive, even though the retention of such property by reason of its character, amount, proportion to the total estate or otherwise, would not be appropriate for the fiduciary apart from this provision.

#### **Section 4.02 Sell and Exchange Property.**

To sell, exchange, give options upon, partition or otherwise dispose of at any time, or from time to time, with or without order of Court, at public or private sale or otherwise, upon such terms and conditions, including credit, and for such consideration as the fiduciary shall deem advisable, and to transfer and convey the property or interest therein which is at the disposal of the fiduciary, in fee simple absolute or otherwise, free of all trust; and the party dealing with the fiduciary shall not be under a duty to follow the proceeds or other consideration received by the fiduciary from such sale or exchange. Upon the death of either Trustor/initial Trustee, the surviving Trustor/Trustee shall not be entitled to encumber, mortgage, sell or other wise convey or dispose of any real property owned by the Trust without the consent of the beneficiary who was to receive said real property under the provisions of Section 3.01.

#### **Section 4.03 Manage Real Property.**

1. To improve, manage, protect, and subdivide any real property;
2. To deal with any such property and every part thereof in all other ways and for such other purposes or considerations as it would be lawful for any person owning the same to deal with such property either in the same or in different ways from those specified in or elsewhere in this subdivision.

#### **Section 4.04 Pay Taxes and Expenses.**

To pay taxes, assessments, compensation of the fiduciary, and other expenses incurred in the collection, care, administration, and protection of the trust estate.

#### **Section 4.05 Receive Additional Property.**

To receive additional property from any source and administer such additional property as a portion of the appropriate trust or estate under the management of the fiduciary; provided the fiduciary shall not be required to receive such property without the fiduciary's consent.

#### **Section 4.06 Make Advances.**

To advance money for the protection of the trust or estate, and for all expenses, losses and liabilities sustained in the administration of the trust or estate or because of the holding or ownership of any trust or estate assets, for which advances with any interest the fiduciary shall have a lien on the assets of the trust or estate as against a beneficiary.

#### **Section 4.07 Exercise Options, Rights, and Privileges.**

To exercise all options, rights and privileges to convert stocks, bonds, debentures, notes, mortgages, or other property into other stocks, bonds, debentures, notes, mortgages, or other property; to subscribe for other or additional stocks, bonds, debentures, notes, mortgages, or other property; and to hold such stocks, bonds, debentures, notes, mortgages, or other property so acquired as investments of the estate or trust so long as the fiduciary shall deem advisable.

#### **Section 4.08 Insure.**

To carry such insurance coverage, including public liability for such hazards and in such amounts, either in stock companies or in mutual companies, as the fiduciary shall deem advisable.

#### **Section 4.09 Collect.**

To collect, receive, and receipt for rents, issues, profits, and income of an estate or trust.

#### **Section 4.10 Litigate, Compromise or Abandon.**

To compromise, adjust, arbitrate, sue on or defend, abandon, or otherwise deal with and settle claims in favor of or against the estate or trust as the fiduciary shall deem advisable, and the fiduciary's decision shall be conclusive between the fiduciary and the beneficiaries of the estate or trust and the person against or for whom the claim is asserted, in the absence of fraud, bad faith or gross negligence of the fiduciary, shall be conclusive between the fiduciary and the beneficiaries of the estate of trust.

#### **Section 4.11 Employ and Compensate Agents, Etc.**

To employ and compensate, out of income or principal or both and in such proportion as the fiduciary shall deem advisable, in settlement of the estate or administration of any trust, including, but not limited to, agents, accountants, brokers, rental agents, realtors, appraisers, and tax specialists; and to do so without liability for any neglect, omission, misconduct, or default of such agent or representative provided he was selected and retained with due care on the part of the fiduciary.



#### **Section 4.12 Establish and Maintain Reserves.**

To set up proper and reasonable reserves for taxes, assessments, insurance premiums, depreciation, obsolescence, amortization, depletion of mineral or timber properties, repairs, improvements, and general maintenance of buildings or other property out of rents, profits, or equalization of payments to or for beneficiaries; provided, however, that the provisions of this subdivision shall not affect the ultimate interest of beneficiaries in such reserves.

#### **Section 4.13 Distribute in Cash or Kind.**

To make distribution of capital assets of the estate of trust in kind or cash, or partially in kind and partially in cash, in divided or undivided interest, as the fiduciary finds to be most practicable and for the best interest of the beneficiaries and to determine the value of capital assets for the purpose of making distribution thereof if and when there be more than one beneficiary thereof, which determination shall be binding upon the beneficiaries unless clearly capricious, erroneous and inequitable; provided, however, that the fiduciary shall not exercise any power under this subdivision unless the fiduciary holds title to or an interest in the property to be distributed and is required or authorized to make distribution thereof.

#### **Section 4.14 Pay to or for Minors or Incompetents.**

To make payments in money, or in property in lieu of money, to or for a minor or incompetent in any one or more of the following ways:

1. Directly to such minor or incompetent;
2. To apply directly in payment for the support, maintenance, education, and medical, surgical, hospital or other institutional care of such minor or incompetent;
3. To the legal or natural guardian of such minor or incompetent;
4. To any other person, whether or not appointed guardian of the person by any Court, who shall, in fact have the care and custody of the person of such minor or incompetent. The fiduciary shall not be under any duty to see to the application of the payments so made, if the fiduciary exercised due care in the selection of the person, including minor or incompetent, to whom such payments were made; and the receipt of such person shall be full acquittance to the fiduciary.

#### **Section 4.15 Make Contracts and Execute Instruments.**

To make contracts and to execute instruments, under seal or otherwise, as may be necessary in the exercise of powers herein granted.

## **ARTICLE 5**

### **Administrative Provisions**

#### **Section 5.01 Spendthrift Provision.**

Except as otherwise expressly provided in this Declaration, no beneficiary of any trust provided for in this Declaration shall have any right, power, or authority to alienate, encumber, or hypothecate his or her interest in the principal or income of such trust in any manner, nor shall such interest of any beneficiary be subject to claims of his or her creditors or liable to attachment, execution, or other process of law.

#### **Section 5.02 Law for Construction of Trusts.**

This Declaration of trust and the validity of, construction of, and all rights under the trust provided for in this Declaration shall be governed by the laws of the State of North Carolina.

#### **Section 5.03 Invalidity of Any Provision.**

Should any provision of this Declaration be or become invalid or unenforceable, the remaining provision of this Declaration shall be and continue to be fully effective.

#### **Section 5.04 Payment of Trustee.**

The Trustmakers of this Trust shall not be entitled to any fee for acting as the initial Trustee(s) of this Trust. At the death of the second Trustmaker, the successor Trustee shall be entitled to collect a fee for services rendered in connection with administration and distribution of this Trust. The amount of the shall be the amount allowed under the provisions of the General Statutes of the State of North Carolina.

#### **Section 5.05 Gender and Number.**

As used in this Declaration, the masculine, feminine or neuter gender, and the singular or plural number shall each be deemed to include the others whenever the context so indicates.

In witness whereof, we have hereunto set our hands and affixed our seals in full approval and acceptance of the trust provided for in this declaration and hereby acknowledge the signature of my spouse to this instrument.

This the April 6<sup>th</sup> of \_\_\_\_\_, 2021.

John D. Hammond (Seal)  
JOHN D. HAMMOND  
Individually and as Trustmaker and Initial Trustee

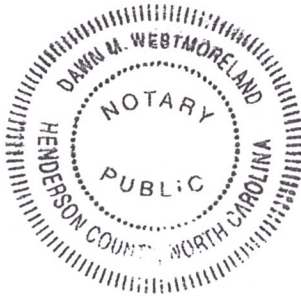
STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

I, Dawn M. Westmoreland, a Notary Public of said State and County, do hereby certify that John D. Hammond, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notorial Seal, this the 6<sup>th</sup> of April, 2021.

My commission expires: 10/02/2022



Dawn M. Westmoreland  
Notary Public