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Pender County North Carolina  
Sharon Lear Willoughby, Register of Deeds  
BK 4665 PG 1828 - 1849 (22)

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF THE  
MARINA AT QUEEN'S GRANT

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (hereinafter the "Declarations") is made this 29<sup>th</sup> day of November, 2017, by R & Q, Incorporated, a North Carolina corporation (hereinafter the "Declarant").

STATEMENT OF PURPOSE

WHEREAS, Declarant desires to create an exclusive facility dedicated to boating activities on certain land as shown on the map entitled "Lot Recombination and Easement For Queens Grant", dated September 14, 2017, and recorded in Map Book 61, Page 43 in the office of the Register of Deeds of Pender County.

WHEREAS, Declarant has set aside or intends to set aside certain areas for the common use and enjoyment of all members of the association known as The Marina at Queen's Grant, Inc., a private non-profit corporation, to provide for the management and maintenance of the common areas and facilities intended primarily for the mutual use, benefit and enjoyment of all members of The Marina at Queen's Grant, Inc.

NOW THEREFORE, Declarant hereby declares that all of the property comprising the facility referred to above and shown on the map entitled "Lot Recombination and Easement For Queens Grant", dated September 14, 2017, and recorded in Map Book 61, Page 43 shall be held, owned, transferred, sold, conveyed, occupied and subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration (including the preamble contained in the Statement of Purpose above which are made a part of this Declaration) which shall run with the land for the term herein and which shall inure to the benefit of and shall be binding on each Member, his heirs, successors and assigns.

ARTICLE I  
DEFINITIONS

✓ HODGES COXE POTTER & PHILLIPS LLP

Section 1.1 "Association" shall mean and refer to The Marina at Queen's Grant, Inc., a North Carolina non-profit corporation, its successors and assigns.

Section 1.2 "Board" or "Board of Directors" shall mean the executive, governing board of the Association first appointed by the Declarant (the "Declarant Board of Directors" or "Declarant Board"), and subsequently elected by the Members (the "Regular Board of Directors" or "Regular Board") as outlined in the Bylaws.

Section 1.3 "Bylaws" shall mean the bylaws of the Association, as amended, modified or supplemented from time to time.

Section 1.4 "Boat Slip" or "Slip" shall mean a Wet Boat Slip, a designated boat space located in and above the water adjacent to a dock, for the docking of a boat or water craft. Such "Boat Slip" shall be a portion of the Marina, and said boat slips are shown on the map entitled "Lot Recombination and Easement For Queens Grant", dated September 14, 2017, and recorded in Map Book 61, Page 43 in the office of the Register of Deeds of Pender County.

Section 1.5 "Common Area" or "Common Areas" shall mean all property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Members of the Association. The Common Area are to be owned by the Association and includes, but is not limited to, the Marina Facilities, walkways, boardwalks, parking areas, utility buildings, other areas, if any.

Section 1.6 "Common Expense" shall mean all financial expense and expenditures made or incurred by the Association, together with allocations for reserves.

Section 1.7 "Declarant" shall mean and refer to R & Q, Incorporated, a North Carolina corporation, with its principal office and place of business at 526 Works Farm Road, Warsaw, NC 28398, its successors and/or assigns.

Section 1.8 "Existing Property" shall mean the property described as Tract X, Tract XI and Tract XIII as shown on the map entitled "Lot Recombination and Easement For Queens Grant", dated September 14, 2017, and recorded in Map Book 61, Page 43 in the office of the Register of Deeds of Pender County.

Section 1.9 "Map" shall mean and refer to the map entitled "Lot Recombination and Easement For Queens Grant", dated September 14, 2017, and recorded in Map Book 61, Page 43 in the office of the Register of Deeds of Pender County, and amendments thereto, showing the Existing Property and the Boat Slips adjacent to and upon said Existing Property, including all piling, piers, docks, and appurtenances thereto for the docking of pleasure boats and crafts located in the navigable waters immediately adjacent to the Existing Property.

Section 1.10 "Marina Basin" shall mean and refer to all of the area encompassing the Marina including all riparian rights of the Existing Property on, over and under the Canal

and Topsail Sound.

Section 1.11 "Marina" or "Marina Facilities" shall mean and refer to the Marina Basin area and all piling, piers, docks, Boat Slips, and all utilities, easements, navigational markers, aids, appurtenances, improvements, amenities thereto lying within the Marina Basin area and located in the navigable waters of the Canal and Topsail Sound which is immediately adjacent to the mean high water marking running along the land shown on the Map.

Section 1.12 "Member" shall mean and refer to every person or entity who holds membership in the Association as evidenced by a written Membership Certificate issued in strict conformity with the Bylaws and these Declarations.

Section 1.13 "Membership" shall constitute the personal property of the Member, with all rights, privileges and obligation as set out herein or in the Bylaws and Rules and Regulations. Said membership shall not constitute real property nor any interest therein.

Section 1.14 "Properties" or "Property" shall mean and refer to the "Existing Property" described herein, and such additions thereto as may hereafter be made subject to this Declaration and brought within the jurisdiction of the Association.

Section 1.15 "Queen's Grant" shall mean all of the property as shown on the map entitled, "Lot Recombination and Easement For Queens Grant", dated September 14, 2017, and recorded in Map Book 61, Page 43 in the office of the Register of Deeds of Pender County.

Section 1.16 "Rules and Regulations" shall mean the Rules and Regulations for the Marina and the Association adopted pursuant to this Declaration and the Bylaws.

Section 1.17 "Transient Boat Slips" shall mean those Boat Slips owned by the Declarant for the temporary mooring or dockage of vessels.

## ARTICLE II PROPERTY SUBJECT TO DECLARATION

Section 2.1 Property Subject to Declaration. The Property is and shall be held, transferred, conveyed and occupied subject to this Declaration and the jurisdiction of the Association.

Section 2.2 Additions to Existing Property.

2.2.1 Additional land which is contiguous to the Existing Property or to any land previously added to the Existing Property may be brought within the scheme of this Declaration and the jurisdiction of the Association by Declarant, in future stages of development, without the consent of the Association or its Members, provided that such annexation occurs while Declarant is a Charter Member of the Association.

2.2.2 The additions authorized under Section 2.2.1 above shall be made by filing Supplementary Declarations of Covenants, Conditions and Restrictions with respect to the additional properties in the Pender County Registry which shall extend the scheme of this Declaration and the jurisdiction of the Association to such properties and thereby subject such additions to the benefits, agreements, restrictions and obligations set forth herein, including, but not limited to, assessments as herein determined. Provided, however, that the Declarant specifically reserves the right to amend or modify any portion or portions of these covenants, conditions and restrictions as the same may be made applicable to such additional properties.

Section 2.3 Withdrawal of Property. For a period lasting as long as Declarant is a Charter Member of the Association, Declarant reserves the right to withdraw any Common Area(s) or to create, redesign or reconfigure such new or additional areas located on land for common use or limited use, including, but not limited to, vehicle parking areas, sidewalks, boardwalks, streets, as well as other areas on land as may be designated as Common Areas on any Plat recorded in the Pender County Registry.

### ARTICLE III DISCLOSURES AND DISCLAIMERS BY DECLARANT

Section 3.1 Compliance with Permits. The Marina Facilities are located upon navigable waters and exist solely in accordance with the terms of such permits, consents, approvals and easements (collectively the “permits”) as have been issued by agencies of the United States of America and the State of North Carolina. All rights, interests and privileges in and to said Marina Facilities are subject to the terms and conditions of all such permits including any modification, extensions or renewals of such permits if requested or required. Each Member, by acceptance of membership, acknowledges these disclosures by Declarant and agrees to accept membership in the Association subject thereto, and subject to any present and future laws and regulations which may be issued and adopted by any governmental authority having jurisdiction over the Marina Facilities.

### ARTICLE IV MEMBERS AND RIGHTS OF MEMBERSHIP

Section 4.1 Classes of Membership. There shall be two (2) classes of members and membership: Charter and Class A. Each membership shall entitle the holder thereof to the exclusive use of a particular Boat Slip, subject to the terms and conditions of this Declaration. The various rights and characteristics of said classes of membership shall be as set forth in this Declaration.

Section 4.2 Membership Eligibility. Each Member of the Association must at all time own real property in Queen’s Grant. If a Member ceases to own real property in Queen’s Grant, their membership will automatically terminate and their membership and Boat Slip

shall revert to the Association unless the Member is in the process of conveying or transferring their membership as provided for in Section 11.

Section 4.3 Charter Membership. In consideration for the establishment of the Development and the creation of the proposed Marina Facilities, the Association shall issue and assign to Declarant a Charter Membership for each and every membership in the Association. Each Charter Membership shall entitle the Declarant to the exclusive use and enjoyment of one (1) particular Boat Slip as identified on the membership certificate. The owner of each Charter Membership shall also have those Common Area rights and the voting rights set forth in this Declaration. Said Charter Memberships shall be freely transferable by Declarant without any application or approval. Upon the sale or assignment of the title to any such Charter Membership by Declarant to another person, partnership, corporation, or other entity, such membership shall immediately cease to be a Charter Membership and shall automatically convert to a Class A Membership.

Section 4.4 Class A Membership. Each Class A Membership shall entitle the owner of such membership to the exclusive right, subject to the provisions of this Declaration and the provisions of the Bylaws and Rules and Regulations issued pursuant hereto, to occupy, possess, and lawfully use that particular Boat Slip identified on such membership certificate. Each Class A Members shall also have those Common Area rights and the voting rights set forth in this Declaration.

Section 4.5 Rights in Common Areas. Each Member shall have a nonexclusive right and easement of enjoyment in and to the Common Areas and in the Boat Slip represented by the Membership, subject to the right of the Association:

- (a) To assign particular Class A Members the right to the exclusive use and enjoyment of Boat Slips in the Marina Facility, including, but not limited to, Transient Boat Slips;
- (b) To limit the number of guests, tenants and social and business invitees of Members using the Marina Facilities and Common Areas;
- (c) In accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Properties, Common Areas and facilities;
- (d) To suspend all rights of any Member to the use and enjoyment of the Common Area and/or any Boat Slip for any period during which an assessment against such Member remains unpaid or, for a period not to exceed sixty (60) days, for an infraction of its published Rules and Regulation, and to license to other Members or otherwise lawfully use all rights of any such Member during any such period of suspension;
- (e) To subdivide any Boat Slips, delete existing Boat Slips or create new or additional Boat Slips with CAMA's permission, if required, provided however, the allocable interests of Members in the Common Areas and in

the Common Expenses shall be re-allocated among the Members on a straight pro-rata basis as a consequence of any additional or deleted Boat Slips, and to record any amendment to this Declaration;

- (f) To dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purpose, subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless approved by the consent of the membership based upon an affirmative vote of two-thirds (2/3) of the total votes eligible to be cast;
- (g) To adopt and enforce reasonable Rules and Regulations for the use of the Common Area and/or the Boat Slips; and
- (h) Any other right of the Association as provided herein.

Section 4.5 Voting Rights. Except as specifically provided in the Bylaws of the Association, the voting rights of the Members at any meeting of members shall be as follows:

- (a) Each Class A Membership shall have one (1) vote; and
- (b) Each Charter Membership shall have one (1) vote.

Section 4.6 Transfer of Membership. Any and all Charter Memberships may be transferred, assigned, pledged, or leased by Declarant without limitation and without the requirement of any approval by the Association. As to all other classes of membership, there shall be no transfer, assignment, pledge, or lease of any membership or any interest therein, except as provided in this Declaration, or in the Bylaws or Rules and Regulations of the Association.

## ARTICLE V DECLARANT RIGHTS

Section 5.1 Retention of Control. Declarant shall retain control of the Association and shall have the rights as described herein, including but not limited to the right to appoint and remove officers and directors of the Association at any time or from time to time, until one hundred twenty (120) days after all Charter Memberships have converted to Class A Memberships.

Section 5.2 Special Rights. In addition to the right of control reserved generally in section 5.1 above, Declarant reserves the right to do or perform any one or more of the following acts, without limitation, during the period of control.

5.2.1 To limit the number of guests, tenants and social and business invitees of Members using the Marina Facilities and Common Areas.

5.2.2 To establish Rules and Regulations regarding permitted uses and prohibited uses of the Boat Slips and Common Areas and regarding the rights and privileges of a Member's interest in the Association and the transferability of such interest in the Association, including without limitation, to suspend all rights of any Member during a time period which an assessment against such Member remains unpaid or, for a period not to exceed sixty (60) days, for an infraction of its published Rules and Regulations, and to license or otherwise lawfully use all rights of any Member during any such period of suspension.

5.2.3 To sponsor celebrations, festivals, promotions, sailing regattas, boat shows and other commercial and social activities and events on the Property and Marina Facilities from time to time at no charge to Declarant and to allow temporary public access and use of the Common Areas and Marina Facilities for such activities and events.

5.2.4 To use and to allow its employees, contractors and agents to use any part of the Common Areas and Marina Facilities in connection with construction or repair of the Marina Facilities.

5.2.5 To subdivide any Boat Slips or delete existing Boat Slips or create new or additional Boat Slips with CAMA's permission, if required, provided however, the allocable interests of Members in the Common Areas and in the Common Expenses shall be re-allocated among the Members on a straight pro-rata basis as a consequence of any additional or deleted Boat Slips, and to record any amendment to this Declaration.

5.2.6 To make minor modifications, adjustments, corrections and other technical changes in any plat and plans recorded in the Pender County Registry, this Declaration, Bylaws, and any other related documents in order to more accurately describe the Property, the Common Areas, the rights and interests of the Declarant and the Members, or to conform any related documents, as reasonably necessary, with any and all governmental requirements, authorizations, approvals, and permits, and with the overall intended development scheme for the Property and Marina.

5.2.7 To relocate pilings or add or remove pilings, and place or relocate utilities serving the Property and Marina, and to grant easements for the same, and to make adjustments in the support structures and boundaries of the Boat Slips as necessary for structural integrity or improvement of the Marina Facilities and to file any amended plat to reflect such changes.

5.2.8 To install or display any navigational aids, hazard markers, signals, warnings, caution signs, rescue devices, instruction signs, rules and regulations, and legal notices as recommended or deemed necessary by the United States Coast Guard, North Carolina Wildlife Resources Commission, North Carolina Marine Fisheries, CAMA or other governmental authority or as deemed necessary or appropriate by Declarant.

5.2.9 To install boat lifts, within or on those Boat Slips which Declarant deems appropriate.

ARTICLE VI  
OWNERSHIP AND USE OF COMMON AREAS

Section 6.1 Ownership of Common Areas. Declarant shall convey to the Association the Common Areas, any and all fixtures, buildings, structures, riparian and littoral rights appurtenant thereto, along with an easement for ingress and egress to and from a public right of way, prior to the recording of this instrument or as soon thereafter as is reasonably possible. All Common Areas shall remain private property and shall not be considered as dedicated to the use and enjoyment of the public, unless a specific easement or other dedication for public use is conveyed by the Association and recorded in the Pender County Registry.

Section 6.2 Licenses and Permits. Upon recording of the Declaration, the Declarant shall transfer and assign to the Association all its interest in and rights and obligations under any major CAMA permit, and any other applicable governmental licenses and permits obtained by the Declarant applicable to the development or operation of the Marina. Upon said transfer or assignment, it shall be the sole responsibility of the Association to keep said licenses and permits renewed or otherwise in force as may be required for the proper management and operation of the Marina.

Section 6.3 Use of Common Area. The Marina Facilities and Common Areas shall not be used in any manner except as provided in this Declaration and as may be approved or specifically permitted by the Association pursuant power and authority granted by this Declaration, the Bylaws or the Rules and Regulations. Subject to the provisions of the Articles of Incorporation, Bylaws, and this Declaration, the Board of Directors of the Association shall have the power to formulate, publish and enforce reasonable Rules and Regulations concerning the use and enjoyment of the Property, Common Areas and Marina Facilities and other property owned or leased by the Association, including any other property or facilities which may be constructed and hereafter conveyed to the Association for use as a Common Area.

Section 6.4 Delegation of Use. Any Member may delegate, in accordance with this Declaration and the Bylaws of the Association, his right of use and enjoyment to the Common Areas and Marina Facilities to the members of his immediate family, guests, tenants or social or business invitees; provided, however, the Member shall always be responsible for the conduct of his family members, guests, tenants and social or business invitees, and the Member may lose some or all privileges of use and enjoyment for misconduct of his family members, guests, tenants and invitees when such misconduct is in violation of this Declaration, the Bylaws or the Rules and Regulations adopted by the Declarant or Association.

Section 6.5 Maintenance of Common Area. The Association shall provide maintenance of all of its Common Area and the properties, including private roads,



marina facilities, bulkheads, parking lot and areas, as well as maintenance dredging of the submerged lands of the Marina Facilities. The cost of such maintenance shall be added to and become part of the total, annual assessment as specified here and in the Bylaws.

Section 6.6 Easements Affecting Common Area. All of the Common Area and the property of the Association shall be subject to such easement for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, footings, air conditioning compressors, gas lines, telephone, cablevision and electric power lines and other public utilities as are of record in the Pender County Registry, prior to the recording of this Declaration and the Association shall have the power and authority to grant and establish upon, over and under and across all of its properties as described herein, such further easements as are appropriate for the convenient maintenance, repair, use and enjoyment of such properties.

Section 6.7 Transient Boat Slips. The Declarant may rent or allow the temporary mooring or dockage of vessels in the Transient Boat Slips under any terms and conditions established by the Declarant and shall be entitled to all rents and fees generated by said Transient Boat Slips. Upon any sale or transfer of the title to the Charter Membership representing any Transient Boat Slip and the conversion of said Membership to Class A Membership as provided by this Declaration, the provisions of this Section 6.7 with regard to the rental or temporary mooring or dockage of vessels in said Transient Boat Slip shall automatically terminate. The rights and authority of the Declarant with regard to said Transient Boat Slips shall automatically terminate upon the conversion of all Charter Memberships to Class A Memberships.

## ARTICLE VII ARCHITECTURAL CONTROL AND USE RESTRICTIONS

### Section 7.1 Restrictions and Use of Boat Slips and Common Areas.

7.1.1 No building, fence, wall sign or other structure or improvement shall be constructed, stored, erected or permitted to remain upon any Boat Slip, Common Area or Property, nor shall any addition, change or alteration therein be made until the plans and specifications showing the nature, kind, shape, heights, materials and location of same have been submitted to and approved in writing by the Board. Boat names, Owner's names, and delinquent assessment notices shall be permitted to be exhibited without such approval subject to general rules regarding such matters adopted by the Board.

7.1.2 No improvements of any type shall be made upon the Property or a Boat Slip by a Member except after prior written consent of the Association.

7.1.3 No Boat Slip shall be used for any purpose except for the purpose of berthing or docking a boat which has a length which does not exceed such length as would result in navigational problems in the Marina or which would be unreasonably large based upon slip size and has a width which does not exceed the designated width of the Boat Slip. Only ordinary, light maintenance shall be permitted on any Boat while docked at the Boat Slip. Spray painting, welding, burning and any other hazardous activities are prohibited in any Boat Slip, on the Property or in the Common Areas.

7.1.4 Without the written approval of the Association, no commercial activity including, but not limited to the sale of fuel, food, printed material, beverages or chandlery may be conducted on the Property, the Common Areas or the Boat Slips, and no repair business may operate an office on the Property, the Common Areas or the Boat Slips.

7.1.5 Nothing shall be done or kept on the Property, in any Boat Slip or on the Common Areas which shall endanger other Members or the property of such Members.

7.1.6 No trash, ashes, garbage or other refuse shall be dumped or stored on the Property or in any waterway. The Board may adopt rules and regulations governing the disposal of refuse and effluent from heads on boats.

7.1.7 No person shall block or obstruct any channel necessary for another person to navigate in or out of the Marina.

7.1.8 No person shall in any manner obstruct any dock, pier or access area. Provided, however, Members shall have exclusive use of the Boat Slips conveyed to them as specified their membership certificate.

7.1.9 Except as provided below in this Declaration, each Slip shall be used only for the mooring of boats in seaworthy condition and under their own power. Only one (1) boat may be moored in a Slip at any time.

7.1.10 Each Member is solely responsible for the proper mooring of his boat and is required to maintain mooring lines in good condition and sufficiently strong to secure the boat at all times. Any special mooring rules or procedures issued by the Association shall be complied with at all times. A Member shall be responsible for any damage to the Marina resulting from improper mooring. Boatlifts may be installed within a boat slip only with the prior written permission of the Association. Members shall be responsible for the costs of the boatlift and all installation and maintenance costs associated thereto.

7.1.11 During hurricanes and other high velocity wind threats, each Member shall be required to remove their boat from the Marina. Each Member is responsible for following all safety precautions that may be issued or recommended by the National Hurricane Center, National Weather Service, U.S. Coast Guard, the Association or any other applicable agency. If a Member 's boat sinks as a result of a storm, or for any other reason, the Member must remove the sunken boat from the Marina immediately after the

occurrence of such event, and if not so removed within forty-eight (48) hours after the sinking, the Association may (but shall not be obligated to) remove the sunken boat and impose a fee against the Member for the cost of such removal. Each Member shall indemnify, defend and save the Association harmless from any and all loss or damage incurred in connection with the exercise or non-exercise of the Association's rights hereunder. If a Member plans to be absent during the hurricane season, such Member must prepare his Slip and secure or remove, as appropriate, his boat prior to his departure in accordance with the standards established by the Board of Directors (or in the absence thereof, with all due care), designate a responsible firm or individual to care for this boat should there be a hurricane or other storm, and furnish the Association with the name, address and telephone number of such firm or individual. Such firm or individual shall be subject to the approval of the Association. The Member shall be liable for all damages caused to the Property and to the Slips, boats or other property of other Member for such Member's improper preparation of or failure to remove, as the case may be, his boat for hurricanes and other storms. Notwithstanding anything contained herein to the contrary, the Association may also levy fines in amounts determined by the Board of Directors from time to time if the Member fails to abide by the provisions of this paragraph. Notwithstanding the right of the Association to enforce the foregoing requirements, the Association shall not be liable to any Member or other person, or entity for any damage to persons or property caused by a Member's failure to comply with such requirements.

7.1.12 Grills may not be used while in a Boat Slip.

7.1.13 No fish or other marine life of any kind shall be cleaned, prepared or processed in any manner on the Property except in those portions of the Property specifically designated for such use by the Board. Fish may be cleaned on a boat, provided that it is done in accordance with the Rules and Regulations of the Association and provided that the boat is properly cleaned afterward.

7.1.14 The Association shall have the right to inspect any boat in the Marina to determine its compliance with all applicable City, County, State and Federal fire, safety and other regulations. Each Member shall indemnify, defend and save the Association from and against any loss or damage incurred in connection with the exercise or non-exercise of the Association's rights hereunder.

7.1.15 Notwithstanding anything contained herein to the contrary, the Association may permit police, U.S. Coast Guard and similar watercraft of public authorities to tie up to and be kept on any portion of the Property designated for such use by the Declarant.

7.1.16 Whenever the Association is permitted or required by this Declaration to enter any Slip for the purpose of correction, repair, cleaning, or clearing, or in the event of an emergency, or any other required or permitted activity, such entrance shall not be deemed a trespass.

7.1.17 No signs, advertisements or notices of any kind shall be displayed to the public view on any Slip, any boat or on the Property, without the prior written approval

of the Association. The foregoing shall not prohibit lettering, registration numbers, flags and other displays customarily found on recreational watercraft.

7.1.18 No garbage, refuse, trash or rubbish shall be deposited except in trash receptacles as provided by the Association. The equipment, trash bins or trashcans for the storage or disposal of such material shall be provided by the Association at various locations on the Property. The requirements of the Federal, State or local regulatory authorities for disposal or collection of solid waste shall be followed. The Association shall be responsible for keeping the equipment in a clean and sanitary condition and for disposing of all garbage, refuse, trash or rubbish in compliance with all applicable requirements.

7.1.19 From time to time, the Association, upon reasonable notice, may require that some or all boats and improvements to the Property be removed for maintenance, repairs or dredging of the Property, at which time the affected Slips may be entered for such period as may be necessary.

7.1.20 The handling, storage, transportation and disposal of hazardous or toxic materials shall be prohibited within the Property; provided, however, that this shall not prohibit the proper handling, storage and transportation of petroleum products used by a Member in connection with the operation of his boat. The Association shall have the right to immediately remove, or cause the removal of, any hazardous or toxic material within the Property. Each Member shall insure that any bilge water pumped into the waters of the Property does not contain any petroleum or other hazardous or toxic materials. For the purposes of this paragraph, hazardous or toxic materials shall be as defined by Federal, North Carolina and common law. Each Member shall indemnify, defend and save the Association, all other Members, all institutional mortgagees and their participants, together with their respective successors and assigns, harmless from and against any damages, claims and liability resulting from or arising out of the violation of any of the requirements of this paragraph by such Member. All expenses incurred by the Association in connection with compliance with all environmental and related laws shall be a general budget expense.

7.1.21 The Association may include in any contract or conveyance document for any Membership, additional protective covenants and restrictions not inconsistent with those contained herein.

7.1.22 No person shall use the Common Areas or any Slip in any manner contrary to, or not in accordance with, the Rules and Regulations which may be promulgated by the Association, whether or not such Rules and Regulations are restated herein in whole or in part.

## ARTICLE VIII COVENANTS FOR ASSESSMENTS

Section 8.1 Creation of the Lien and Personal Obligation of Assessment.

Each owner of each membership, except certain Charter Memberships as otherwise provided herein, agrees to pay the Association: (i) regular assessments, (ii) special assessments, (iii) assessments for violations of this Declaration, the Bylaws, or Rules and Regulations of the Association, and (iv) assessments for repairs of damage caused by the fault of the Member to be assessed, such assessments to be fixed, established and collected from time to time as hereinafter provided. All such assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the membership and shall be a continuing lien upon the membership against which each such assessment is made. Each such assessment, together with such interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such membership at the time the assessment fell due. The personal obligation of the Member for delinquent assessments shall not pass to his successor in interest unless (i) expressly assumed by such successor (ii) the successor is a spouse or lineal descendant of the transferor or (iii) the transfer is voluntary and without consideration to the successor.

Section 8.2 Exemption from Regular and Special Assessments for Charter

Memberships. Charter Memberships shall be exempt from Regular and Special Assessments, except as otherwise provided in this Declaration, which exemption from Regular and Special Assessments provided by this Section 8.2 shall automatically terminate when a Charter Membership converts to a Class A Membership. Upon the termination of any exemption from assessments, as provided by this Section 8.2, the effective date from which said membership shall be subject to assessments under the terms of this Declaration shall be the date the termination is effective.

Section 8.3 Purpose of Assessments. The assessments levied by the Association shall be used as follows:

- (a) To maintain all private driveways from the roads and parking areas constructed within the Common Areas to the standard of maintenance which would be required by Pender County, North Carolina;
- (b) To maintain the Marina Facility and all pilings, piers, docks, buildings and other appurtenances thereto in good condition and repair for the safe use and enjoyment of the Members;
- (c) To maintain all access easements, docks, bulkheads and footbridges in the Common Areas in an easily passable condition, free from fallen trees, undergrowth, and other obstructions; and to keep all dead, diseased or decaying trees, shrubs and bushes removed from such areas and to replace such items with new trees, shrubs and bushes;
- (d) To keep all amenities clean and free from debris and to maintain all

amenities in an orderly condition, and to maintain the landscaping therein;

- (e) To provide such security services as may be deemed reasonably necessary for the protection of the Common Area from theft, vandalism, fire and damage from animals;
- (f) To provide garbage removal from all Common Areas and the Marina Facilities;
- (g) To pay all ad valorem taxes levied against the Common Areas and any property owned by the Association;
- (h) To maintain and pay the premiums on all hazard insurance carried by the Association on the Common Areas and all public liability insurance carried by the Association pursuant to the Bylaws;
- (i) To enforce these Covenants and Rules and Regulations of the Association;
- (j) To pay all legal, accounting and other professional fees and all other expenses incurred by the Association in carrying out its duties as set forth herein or in the Articles or Bylaws; and
- (k) To accumulate and subsequently maintain a contingency reserve equal to 10% of the sum of the amounts described in subsections (a) through (j) above in order to fund unanticipated expenses of the Association.

#### Section 8.4 Regular Assessments.

8.4.1 The Board is specifically empowered on behalf of the Association to make and collect regular assessments and to replace, maintain and repair all Common Areas and property of the Association including the private roads, bulkheads, docks, piers, pilings, and other facilities. Assessments shall be payable periodically as determined by the Board, but no more frequently than monthly.

8.4.2 The Board shall determine the amount of regular assessments against members as specified herein and in the Bylaws, which are incorporated herein by reference. Regular assessments against members shall be determined, imposed, levied and collected by the Board.

8.4.3 The Board of Directors shall fix the amount of the regular assessment against each membership at least thirty (30) days in advance of each fiscal year, which fiscal year, unless otherwise defined by the Board, shall be a calendar year.

8.4.4 The Board shall establish the due date of any regular assessment.

8.4.5 The obligation for regular assessments provided for herein shall

commence as to each membership, except as provided for in 8.2, on the first day of the month following its acquisition from the Declarant or some other person, partnership, corporation or other entity.

Section 8.5 Special Assessments. In addition to the regular assessments authorized above, the Board may levy in any fiscal year, a special assessment or assessments applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of capital improvements upon any of the Common Area and the necessary fixtures and personal property related thereto, or defraying the expenses of operation, maintenance or renovation not adequately funded by regular assessments. Except as specified herein, all special assessments shall be determined, imposed, levied and collected in the manner prescribed herein and in the Bylaws, provided that, if such special assessment exceeds five thousand dollars (\$5,000.00) per membership in any fiscal year, such assessment must receive the approval of a majority of the votes eligible to be cast at a meeting of the members duly constituted for this purpose, written notice of which shall have been sent to all members not less than ten (10) days nor more than fifty (50) days in advance of the meeting setting forth the time, date, place and purpose of the meeting.

Section 8.6 Quorum For Action on Special Assessments. At any meeting of the members called for the purpose of considering the approval of any special assessment as provided in Section 8.5 above, the presence at the meeting of memberships or of proxies entitled to cast fifty-one percent (51%) of all the votes shall constitute a quorum.

Section 8.7 Certificate. The Association shall, upon demand at any reasonable time, furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments against a specified membership have been paid. The Board may charge reasonable amount for issuance of these certificates. The certificate, when signed by an authorized officer of the Association, may be relied upon by the requesting party as evidence of payment of any assessment therein stated to have been paid.

Section 8.8 Special Assessment for Violation. For the violation by a Member or his guest of any rule or regulation adopted by the Board or the breach of any Bylaw, or the breach of any provision of the declaration, the Board shall have the power and authority to impose a special assessment against any Member not to exceed five hundred dollars (\$500.00) for each occurrence.

Section 8.9 Assessments For Repairs Of Damage Caused By Fault. If a Member, his family, tenant, invitee, or a guest damages or destroys by his or her fault, as determined by the Board, any of the Common Area or property of the Association, including the private roads, landscaping, bulkheads, piers, docks and other facilities, the Association shall repair the damage or replace the destroyed property as soon as

practicable and shall levy an individual assessment upon the responsible Member for the full cost of repair or replacement. All Class A and Charter Memberships shall be subject to Assessment under this Section.

Section 8.10 Procedure For Certain Assessments. With regard to assessments for violations under Section 8.8 of this Article, and to assessments for repairs to damage under Section 8.9 of this Article, the Board shall provide a hearing to the Member upon whom it is proposed to impose such an assessment. The Board shall provide to the Member notice of the charge and the proposed assessment, opportunity to be heard and to present evidence, and notice of the decision. The decision of the Board shall be final. Such assessment shall be a lien and shall be enforceable as otherwise provided in this Article.

Section 8.11 Effect of Nonpayment of Assessments and Remedies of the Association. Any assessments or any portions thereof which are not paid when due shall be delinquent. If the assessment or portion thereof is not paid within thirty (30) days after the due date, the same shall become a lien on such membership and bear interest from the date of delinquency at the rate of fifteen (15%) per annum. No Member may waive or otherwise escape liability for the assessments provided for herein by non-use or abandonment of his membership.

Section 8.12 Creation of Lien. Recognizing that proper operation and management of the Common Areas require the continuing payment of costs and expenses therefor, and that such proper operation and maintenance result in benefit to all of the owners of memberships, and that the payment of such common expenses represented by the assessments levied and collected by the Board is necessary in order to preserve and protect the Common Areas and the property of the owners of memberships, the Association is hereby granted a lien upon each membership as provided by Article 8 of Chapter 44 of the North Carolina General statutes, or any other lawful, applicable section, which lien secures the monies due for assessments now or hereafter levied against the owner of said membership, all interest, if any, which may be due on the amount of any delinquent assessments owing to the Association, and which lien shall also secure all costs and expenses, including reasonable attorney's fees, which may be incurred by the Association in securing the payment of such assessment or enforcing said lien. The lien granted to the Association may be foreclosed in the manner provided by law or by this Declaration, and in any suit for the foreclosure of that lien; the Association shall be entitled to the appointment of a receiver for that membership. The lien granted to the Association shall further secure such advances for taxes, and payments on account of superior mortgages, liens or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien, and the Association shall further be entitled to interest at the rate prescribed above on any such advances made for such purpose. All persons, firms or corporations who shall acquire, by whatever means, any interest in the ownership of any membership, or who may be given or acquire a mortgage, lien or other encumbrance thereon, are hereby placed on notice of the lien rights granted to the Association, and shall acquire such interest in any membership expressly subject to such lien rights. The



lien granted herein shall be in addition to any other rights granted herein or by law to the Association for the enforcement of the obligations of the members to pay said assessment

Section 8.13 Subordination of Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or pledge of the membership. An attempted sale or transfer of any membership shall not affect the assessment lien, and the membership shall neither be transferred on the books of the Association nor shall the Association issue a new certificate of membership until the lien is satisfied. However, the sale or transfer of any membership subject to any mortgage or pledge, pursuant to a decree of foreclosure under such mortgage or pledge or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to payments thereon which become due prior to such sale or transfer. No sale or transfer shall relieve such Member from liability for any assessments thereafter becoming due or from the lien thereof.

Section 8.14 Claim of Lien and Foreclosure. The lien herein granted unto the Association shall be enforceable from and after the time of recording a claim of lien in the public records of Pender County, North Carolina, which claim shall state the description of the membership encumbered thereby, the name of the record owner, the amount due and the date when due. The claim of lien shall be recordable any time after default and the lien shall continue in effect until all sums secured by that lien as herein provided shall have been fully paid. Such claims of lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorney's fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record. The Association shall be authorized to foreclose on such lien or claim of lien in any manner allowed by law. The lien provided for herein shall be subordinate to the lien of any first mortgage or pledge, and any person, firm or corporation acquiring title to any membership by virtue of any foreclosure, transfer in lieu of foreclosure or judicial sale, shall be liable and obligated only for assessments as shall accrue and become due and payable thereafter. After satisfaction of the lawful claims of such first mortgagee/pledge, the net proceeds from any foreclosure sale or private sale shall first be applied to the payment of all lien claims of the Association, and the balance of such sale proceeds shall then be delivered to the owner(s) of the Membership which was subjected to the foreclosure or private sale in lieu of foreclosure. In the event of the acquisition of a membership by foreclosure, transfer in lieu of foreclosure or judicial sale, any assessment or assessments as to which the party so acquiring the membership shall not be liable shall be absorbed and paid by all owners of all memberships as a part of the common expenses, although nothing herein contained shall be construed as releasing the party liable for such delinquent assessment from payment thereof or the enforcement of collection of such payment by means other than foreclosure.

Section 8.15 Lien Not Exclusive Remedy. Institution of a suit at law to attempt to

collect delinquent assessments attorney's fees, interest and costs shall not be deemed to be an election by the Association which shall prevent it from thereafter seeking, by foreclosure action, enforcement of the collection of any sums remaining owing to it, nor shall proceeding by foreclosure to attempt such collection be deemed to be an election precluding the institution of a lawsuit to collect any sums owed to the Association.

Section 8.16 Joint and Several Liability of Subsequent Purchaser. In any voluntary conveyance of a membership, the purchaser thereof shall be jointly and severally liable with the seller for all unpaid obligations against seller made prior to the time of such voluntary conveyance, without prejudice to the rights of the purchaser to recover from seller the amounts paid by purchaser therefor.

Section 8.17 Initial Association Expenses Assessment. Upon the transfer of membership to a new Member (other than a successor declarant or designated declarant), the Member is required to pay the sum of \$300.00 as contribution to the Association operating funds. This sum is not an advance payment of the monthly Regular Assessment; rather the sum is allocated to the operating fund account to meet expenditures and operating expenses (to include, but not limited to taxes, insurance requirements, utility expenses).

## ARTICLE IX INSURANCE

Section 9.1 Association Property and Common Area. The Board of Directors on behalf of the Association, as an operational expense, shall at all times keep it and its property, and the Common Area reasonably insured against loss or damage by fire flood, wind or other hazards normally insured against, and other such risks, including public liability insurance, upon such terms and for such amounts as may be reasonably necessary from time to time to protect the interests of the Association, which insurance proceeds shall be payable in case of loss to the Association. The Association shall have the sole authority to deal with the insurer in the settlement of claims.

Such insurance shall be obtained without prejudice to the right of each Member to insure his personal property for his own benefit at his own expense. In no event shall the insurance coverage obtained by the Association be brought into contribution with insurance purchased by Members or their pledges or mortgagees.

Section 9.2 Boats and Vessels. All boats and vessels docked in any Boat Slip shall be covered by adequate liability insurance by the owner of said boat or vessel that shall protect the owner against claims for damages resulting from (a) bodily injury, including wrongful death, and (b) property damage which may arise from the operation of the boat or vessel. The minimum acceptable limits of liability to be provided by such liability insurance shall be \$500,000.00. Proof of such insurance shall be provided by the Member assigned to said Boat Slip or the owner of said boat or vessel, as the case may be, to the

Association or such agent, property manager, or dock master as it shall appoint.

ARTICLE X  
SALES, TRANSFERS, MORTGAGES, PLEDGES, AND LICENSE

Section 10.1 Transfer of Charter Membership. Any and all Charter Memberships may be transferred, assigned, licensed, mortgaged, pledged, rented, gifted or leased by Declarant without limitation and without the requirement of any approval.

Section 10.2 Sale of Membership and Right of First Refusal. Except as otherwise provided in this Article XI, in the event that any Class A Member desires to sell or transfer his membership or any interest therein, said membership or interest shall first be tendered for sale to the Association at the same price and on the same terms and conditions at which the highest bona fide offer has been made for such membership. The Class A Member shall give the Association written notice of his desire to sell or transfer by registered mail, return receipt requested, and shall further advise the Association of the name and address of the person, firm or corporation making the highest bona fide offer, the amount and terms of such offer, and such other information pertinent to the offer as the Association may require. Within thirty (30) days after receipt of that notice, the Association may exercise its option to purchase the tendered membership. Should the Board fail or refuse within thirty (30) days after the receipt of the written notice to exercise its option, the membership may then be sold or transferred at a price and upon such terms, not less than those for which it was offered to the Association. In the event that any Class A Member desires to sell or transfer his membership, and the Association has failed or refused to exercise its right of first refusal within the prescribed thirty (30) day period, such Class A Member shall evidence such transfer by executing the transfer provision on the reverse side of his membership certificate and shall deliver said certificate to the Association, requesting issuance of a new certificate to the buyer. Any transfer or sale of any membership by any Member shall be subject to all the terms, covenants, limitations and provisions of this Declaration, as well as the Bylaws and Rules and Regulations of the Association and any amendments thereto. The Association reserves the right to charge a reasonable fee for the transfer of Class A Memberships to persons other than a family member of the transferring Member.

Section 10.3 Intra-Family Transfers. Any Class A Member who is a natural person may give, bequeath or permit his membership to pass by operation of law to any member of his immediate family, including his spouse, child, brother, sister or parent, including persons related by adoption to the Member, without complying with the provisions of Section 2 of this Article IX regarding the Association's right of first refusal provided, however, that such transfer must be approved by the Association, which such approval shall not unreasonably be withheld, and the family member owns real property in Queen's Grant or is being transferred real property in Queen's Grant. The Board of Directors of the Association shall have the authority to act on all applications for approval of the transfer of membership and shall adopt a procedure

for the submission, review and action upon applications for the approval of transfers.

Section 10.4 License of Membership. No Class A Member shall license his membership rights or rent or lease his Boat Slip without express prior approval of the Association, but such approval shall not be unreasonably withheld. The Board of Directors of the Association shall have the authority to act on all applications for licensing of memberships or rental or lease of Boat Slips and shall adopt a procedure for the submission, review and action upon applications for the licensing of memberships or the rental or lease of Boat Slips.

Section 10.5 Binding Nature. The provisions of this article shall be binding upon and inure to the benefit of all the Members of the Association, their respective heirs, administrators, successors and assigns.

Section 10.6 Transfer Voidable. Any transfer or conveyance of any membership or any interest therein or the rental or lease of a Boat Slip, without complying with the provisions of this Article is voidable at the election of the Association.

Section 10.7 Pledge of Membership. Any Charter or Class A Membership may be voluntarily pledged or conveyed as security for any obligation of the Member owning said membership, without prior notice to or authorization by the Association, and the provisions of this Article XI shall not apply to such transfers. In the event of a default in the obligation secured by said membership and the exercise by any secured creditor of its rights therein, any person or entity acquiring the Member's interest in said membership as a result of such default (the "transferee") shall succeed fully to Member's rights in said membership, provided that (i) all unpaid assessments due from the Member are paid in full, and (ii) the transferee otherwise satisfies the requirements for membership. Upon surrender to the Association of the membership certificate identified above, the Association shall issue a new Membership certificate for the Boat Slip acquired by the Transferee.

## ARTICLE XI RIGHTS OF SECURED PARTIES

Section 11.1 Notice. In addition to any other rights granted herein to certain holders of security interests in or on any membership, any holder of a security interest in or on any membership shall have the right to timely written notice, with regard to the membership held as security, of the Member's (i) failure to comply with the requirements of the Association, including, but not limited to this Declaration, the Bylaws or the Rules and Regulations; (ii) failure to maintain said membership in good standing; or (iii) failure to pay any club assessment.

Provided, however, that the notification rights granted above shall be available only to those holders of security interest who have submitted a written request to the Association requesting such notification. Said written request shall include the name and

address of the party making such request, and shall identify the membership on which it has the security interest.

## ARTICLE XII UTILITIES

Section 12.1 Utilities. The Association shall provide access to town water for all Boat Slips and lighting in general for all Common Areas and easement areas. Payment of all water bill and electricity for lighting of the Marinas, Common Areas, the Property and all other areas for use by the Association and/or its Members shall be a common expense of the Association. Electrical services shall be supplied by a public utility company to a point of service on the Property.

## ARTICLE XIII GENERAL PROVISIONS

Section 13.1 Enforcement. In the event of any violation or attempted violation of any of the restrictions, conditions, covenants, reservations, and provisions hereof, then the Declarant, the Association, and/or any Member shall have the right to enforce the same by maintaining or prosecuting proceedings at law for the recovery of damages and/or proceedings in equity for the purpose of preventing such violation. The remedies set forth herein shall be construed as cumulative of all other remedies now or hereafter provided by law. Failure to enforce any covenant or restriction contained herein shall in no event be deemed a waiver of the right to do so thereafter.

Section 13.2 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 13.3 Rules and Regulations. Rules and Regulations governing the use and appearance of the Common Area, conduct of Members and guests, and use and care of the Marina Facility may be adopted by the Board of Directors and thereafter supplemented, revised, repealed or amended, and enforced in accordance with the Bylaws.

Section 13.4 Management Agreement. The Association shall be authorized, but not required, to enter into a management agreement with the Declarant or any other qualified third party providing for the management of the affairs of the Marina and/or the Association, as further provided in the Bylaws.

Section 13.5 Duration and Binding Effect. The covenants, conditions and restrictions of this Declaration shall run with the land, shall be binding insofar as the law permits,

and shall be enforceable for a term of twenty (20) years from the date this Declaration is recorded, after which time such covenants shall be automatically extended for successive periods of ten (10) years each, unless terminated by a written Declaration of Termination recorded in the Pender County Registry, after having been adopted by vote of sixty-seven percent (67%) of the Members and approved by Declarant, if Declarant is still a Charter Member.

Section 13.6 Amendment. This Declaration may be amended in either of the following two ways:

- (a) By the Declarant, so long as the Declarant is a Charter Member; or
- (b) By the Association upon an affirmative vote of not less than sixty-seven percent (67%) of the votes eligible to be cast, any such amendment to be evidenced by a written instrument recorded in the Pender County Registry provided, however, that any such amendment by the Association, to be effective, shall require the written consent of Declarant so long as the Declarant is a Charter Member.

Section 13.7 Effective Date. The Declaration shall become effective upon its recording in Pender County Registry.

IN WITNESS WHEREOF, R & Q, Incorporated, the Declarant, has caused this instrument to be executed by its duly authorized officers and its seal affixed, the day and year first above written.

R & Q Incorporated



By: Kim Quinn  
Its: President

STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

I, Matthew C. Mearady, a Notary Public, do hereby certify that Kim Quinn personally appeared before me this day and acknowledged that he is the President of R & Q Incorporated, a North Carolina Corporation and as the act of R & Q Incorporated, he signed the foregoing instrument in his name on its behalf as its act and deed.

Witness my hand or official seal, this 29<sup>th</sup> day of November, 2017.



My Commission Expires: 3/26/2022

