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STATE OF NORTH CAROLINA  
 COUNTY OF BRUNSWICK

Prepared by: Ellen Wortman, Marshall, Williams & Gorham, LLP, 14 S Fifth Ave, Wilmington, NC 28403

Return to Ellen Wortman, Marshall, Williams & Gorham, LLP, 14 S Fifth Ave, Wilmington, NC 28403

**AMENDMENT TO THE DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS FOR CAPE SIDE SUBDIVISION**

**ADJUSTMENT OF CAPITAL CONTRIBUTION**

THIS AMENDMENT TO DECLARATION, made this the 13 day of April, 2017, by CAPE SIDE PROPERTY OWNERS ASSOCIATION, INC. and Cape Side NC, LLC (hereinafter referred to as the "Declarant"), the owner and developer of certain real estate in Brunswick County in the subdivision known as **CAPE SIDE** being more fully particularly described in the DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS recorded at Book 1477, Page 108 of the Brunswick County Registry and amendments thereto (hereinafter referred to as the "Property"), and being more fully particularly described in Exhibit A attached thereto, made part hereof and incorporated by reference, said Property subject to the DECLARATION OF CHANGE OF NAME OF SUBDIVISION recorded at Book 1450, Page 560 of the Brunswick County Registry, the DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS recorded at Book 1477, Page 108 of the Brunswick County Registry, re-recorded at Book 1489, Page 754 of the Brunswick County Registry, and SUPPLEMENTAL DECLARATION COVERING LOTS 48, 49 AND 54, SECTION ONE, CAPE SIDE SUBDIVISION TO COMPLY WITH THE FEDERAL CLEAN WATER ACT recorded at Book 2949, Page 1208 of the Brunswick County Registry (hereinafter collectively referred to as the "Covenants");

WITNESSETH:

WHEREAS, Coastal Developers, LLC, a North Carolina limited liability company, recorded the DECLARATION OF CHANGE OF NAME OF SUBDIVISION recorded at Book 1450, Page 560 of the Brunswick County Registry, DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS recorded at Book 1477, Page 108 of the Brunswick County Registry and re-recorded at Book 1489, Page 754 of the Brunswick County Registry and the SUPPLEMENTAL DECLARATION COVERING LOTS 48, 49 AND 54, SECTION ONE,

CAPE SIDE SUBDIVISION TO COMPLY WITH THE FEDERAL CLEAN WATER ACT recorded at Book 2949, Page 1208 of the Brunswick County Registry;

WHEREAS, Cape Side NC, LLC (formerly Drapac Group 24, LLC), a NC authorized LLC, is the successor to the rights of Coastal Developers, LLC as “Declarant” under the Declaration by virtue of that certain Assignment of Declarant Rights recorded in Book 3428, Page 1327, in the Brunswick County Registry;

WHEREAS, the Covenants mistakenly referred to the Association as “Cape Side Homeowners Association, Inc.”, instead of Cape Side Property Owners Association, Inc.; and

WHEREAS, pursuant to Article V(3), each Owner shall be assessed a Capital Contribution to the Association at the time of closing, and the Association desires to increase the Capital Contribution to an amount equal to the current rate of Annual Assessments; and

WHEREAS, the Declarant, Association and the undersigned Lot Owners desire to amend said Covenants to correct the name of the Association and increase the Capital Contribution, all of which will preserve the value and protect the present and future Lot Owners of Cape Side; and

WHEREAS, pursuant to Article XIII (3), the Covenants can be amended by an instrument signed by the Owners of not less than sixty-seven percent (67%) of the Lots and the Declarant owns 25 of the 76 Lots, and 48 additional Lot Owners signed this Amendment, bringing the total to more than sixty-seven percent (67%); and

WHEREAS, the undersigned, representing not less than sixty-seven percent (67%) of the Lot Owners within Cape Side, have consented to the Declaration of Amendment to the Declaration of Restrictions and Protective Covenants for Cape Side Subdivision as herein contained;

AND, WHEREAS, the purpose of this Amendment is to amend portions of the prior Covenants. This Declaration does not replace and supersede all Prior Covenants; and

NOW, THEREFORE, the Declarant, Association and the undersigned Lot Owners representing not less than sixty-seven percent (67%) of the Lot Owners within Cape Side, hereby declare that all of the properties in Cape Side shall be held, sold and conveyed, from and after the date of the recordation of this document, subject to the following amendments:

**First Amendment**

All references in the Covenants to “Cape Side Homeowners Association, Inc.” shall be replaced with “Cape Side Property Owners Association, Inc.”

**Second Amendment**

Article V, Section 3 is deleted and replaced with the following:




“Section3. Capital Contribution. Upon each and every conveyance of a Lot after it has been improved with a residence for which a certificate of occupancy has been issued, the transferee or grantee becoming the Owner of the Lot shall be obligated to pay to the Association, in addition to all other assessments levied under this Declaration, simultaneously upon such transfer or conveyance a non-refundable Capital Contribution in an amount equal to the annual assessment then in effect and levied upon the Lot (hereinafter, the “**Capital Contribution**”). The Capital Contribution shall be collected and paid to the Association at the closing of each sale, transfer or conveyance of the Lot. All Capital Contributions shall be used by the Association for any purpose as directed by the Board of Directors. The Capital Contribution shall constitute an assessment against the Lot and shall be collected in the same manner provided herein for the collection of all other assessments. Notwithstanding the foregoing, the Capital Contribution shall not be due from (i) any grantee who is the spouse or former spouse of the grantor; (ii) any grantee to whom a Lot is transferred by will or under the laws of intestacy; and (iii) any grantee to whom a Lot is transferred as a gift, that is, gratuitously and without value of legal consideration, as determined by the Board of Directors in its sole discretion. Furthermore, the Capital Contribution shall not be payable upon the refinancing of a Lot, provided there is no change in the fee simple ownership of the Lot.”


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IN WITNESS THEREOF, the undersigned, representing the signatures of at least sixty-seven percent (67%) of Lot Owners are attached hereto and Cape Side Property Owners Association, Inc., the Association, and Cape Side NC, LLC, the Declarant, have caused this instrument to be executed by its proper corporate officers, this the 13 day of April, 2017, and have hereunto set their hand and seals all the day and year first above written.

IN WITNESS WHEREOF, the Board of Directors of CAPE SIDE PROPERTY OWNERS ASSOCIATION, INC. has caused this instrument to be executed in CAPE SIDE PROPERTY OWNERS ASSOCIATION, INC.'S corporate name and its seal to be hereunto affixed the day and year first above written.

By: Cape Side Property Owners Association, Inc.

  
Title: Colby Shear, President


  
Attested By: Eric Masaschi, Secretary

**CORPORATE SEAL:**

State of Georgia – County of DeKalb

I, the undersigned Notary Public of the County and State aforesaid, certify that Colby Shear personally came before me this day and acknowledged that she is the President of Cape Side Property Owners Association, Inc., a North Carolina non-profit corporation, and that by authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal, this 13<sup>th</sup> day of April, 2017.

My Commission Expires: 2-16-2019

  
Notary Public

SEAL:

SAMANTHA KEETON  
NOTARY PUBLIC  
DeKalb County  
State of Georgia  
My Comm. Expires Feb. 16, 2019

State of Georgia – County of DeKalb

I, the undersigned Notary Public of the County and State aforesaid, certify that Eric Masaschi personally came before me this day and acknowledged that she is the Secretary of Cape Side Property Owners Association, Inc., a North Carolina non-profit corporation, and that by authority duly given and as the act of such entity, he attested the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal, this 13<sup>th</sup> day of April, 2017.

My Commission Expires: 2-16-2019

  
Notary Public

SEAL:

SAMANTHA KEETON  
NOTARY PUBLIC  
DeKalb County  
State of Georgia  
My Comm. Expires Feb. 16, 2019

Cape Side NC, LLC, a Delaware Limited Liability Company

BY: [Signature]  
NAME: Sebastian Drapac  
TITLE: Member-Manager

STATE OF GEORGIA  
COUNTY OF DEKALB

This 13<sup>th</sup> day of April, 2017, personally came before me, Samantha Keeton, a Notary Public of DeKalb County, State of Georgia, Sebastian Drapac, who, being by me duly sworn, says that he is the Member-Manager of Cape Side NC, LLC, a Delaware Limited Liability Company, and that by authority duly given, the foregoing instrument was signed and sealed by him/her as on behalf of said entity.

[CHECK ONE]  (i) I have personal knowledge of the identity of the principal; or  
 (ii) I have seen satisfactory evidence of the principal's identity by a current state or federal identification, with the principal's photograph, in the form of a .

Witness my hand and official stamp or seal this 13<sup>th</sup> day of April, 2017

Notary Public: [Signature]  
My commission expires: 02-16-2019

SAMANTHA KEETON  
NOTARY PUBLIC  
DeKalb County  
State of Georgia  
My Comm. Expires Feb. 16, 2019

OWNER SIGNATURES ON FOLLOWING PAGE

*John J. Yencik* LOT 34  
John J. Yencik (SEAL)



B3912 P0947 05-26-2017 16:14:14.001  
Brenda M. Clemmons PROP  
Brunswick County, NC Register of Deeds page 6 of 15

Printed Name: \_\_\_\_\_, Member-Manager for Cape Side NC, LLC  
Lots: 13, 21, 24, 25, 26, 28, 29, 30, 33, 36, 39, 40, 46, 48, 49, 51, 52, 53, 54, 66, 68, 70, 71, 73 and 76.

*Jenny Bronaugh* (SEAL)  
Printed Name: Jenny Bronaugh Jenny Bronaugh  
Lot: 55

*Dorothy J. Law* (SEAL)  
Printed Name: Dorothy J. Law Dorothy J. Law  
Lots: 43

*James R. Owen* (SEAL)  
Printed Name: JAMES R. Owen James R. Owen  
Lots: 30

*Neil Carfora* (SEAL)  
Printed Name: NEIL CARFORA Neil Carfora  
Lots: 31

*Harriett Gano* (SEAL)  
Printed Name: Harriett Gano Harriett Gano  
Lots: 35

*Patricia Putnam* (SEAL)  
Printed Name: Patricia Putnam Patricia Putnam  
Lots: 17



F. Lavin (SEAL)  
Printed Name: Felicity Lavin Felicity Lavin  
Lots: 04

Jerry Chambers (SEAL)  
Printed Name: JERRY CHAMBERS Jerry Chambers  
Lots: 11

Neil Gilbert Barbara Kucinski-Gilbert (SEAL)  
Printed Name: Neil Gilbert Barbara Kucinski-Gilbert  
Lots: LOT 27 Neil Gilbert Barbara Kucinski-Gilbert

Lopez Dennis Michelle Lopez (SEAL)  
Printed Name: Lopez Dennis Michelle Lopez  
Lots: 44 Dennis Lopez

\_\_\_\_\_  
Printed Name: \_\_\_\_\_ (SEAL)  
Lots: \_\_\_\_\_

\_\_\_\_\_  
Printed Name: \_\_\_\_\_ (SEAL)  
Lots: \_\_\_\_\_

\_\_\_\_\_  
Printed Name: \_\_\_\_\_ (SEAL)  
Lots: \_\_\_\_\_

\_\_\_\_\_  
Printed Name: \_\_\_\_\_ (SEAL)  
Lots: \_\_\_\_\_



Ralph Eckley (SEAL)  
Printed Name: Ralph Eckley Ralph Eckley  
Lots: 20

\_\_\_\_ (SEAL)  
Printed Name: \_\_\_\_\_  
Lots: \_\_\_\_\_

\_\_\_\_ (SEAL)  
Printed Name: \_\_\_\_\_  
Lots: \_\_\_\_\_

\_\_\_\_ (SEAL)  
Printed Name: \_\_\_\_\_  
Lots: \_\_\_\_\_

\_\_\_\_ (SEAL)  
Printed Name: \_\_\_\_\_  
Lots: \_\_\_\_\_

\_\_\_\_ (SEAL)  
Printed Name: \_\_\_\_\_  
Lots: \_\_\_\_\_

\_\_\_\_ (SEAL)  
Printed Name: \_\_\_\_\_  
Lots: \_\_\_\_\_

\_\_\_\_ (SEAL)  
Printed Name: \_\_\_\_\_  
Lots: \_\_\_\_\_



*John Thomas Goodwin*

Printed Name: John Thomas Goodwin (SEAL) John Thomas Goodwin  
Lots: 1000 SEA BOURNE WAY  
Lot 43

\_\_\_\_\_  
Printed Name: \_\_\_\_\_ (SEAL)  
Lots: \_\_\_\_\_

\_\_\_\_\_  
Printed Name: \_\_\_\_\_ (SEAL)  
Lots: \_\_\_\_\_

\_\_\_\_\_  
Printed Name: \_\_\_\_\_ (SEAL)  
Lots: \_\_\_\_\_

\_\_\_\_\_  
Printed Name: \_\_\_\_\_ (SEAL)  
Lots: \_\_\_\_\_

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Printed Name: \_\_\_\_\_ (SEAL)  
Lots: \_\_\_\_\_

\_\_\_\_\_  
Printed Name: \_\_\_\_\_ (SEAL)  
Lots: \_\_\_\_\_

\_\_\_\_\_  
Printed Name: \_\_\_\_\_ (SEAL)  
Lots: \_\_\_\_\_



*Signature*

\_\_\_\_\_  
(SEAL)  
Printed Name: Sebastian Drapac, Member-Manager for Cape Side NC, LLC Sebastian Drapac  
Lots: 13, 21, 24, 25, 26, 28, 29, 30, 33, 36, 39, 40, 46, 48, 49, 51, 52, 53, 54, 66, 68, 70, 71, 73  
and 76.

\_\_\_\_\_  
(SEAL)  
Printed Name: \_\_\_\_\_  
Lot: \_\_\_\_\_

\_\_\_\_\_  
(SEAL)  
Printed Name: \_\_\_\_\_  
Lots: \_\_\_\_\_

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(SEAL)  
Printed Name: \_\_\_\_\_  
Lots: \_\_\_\_\_

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(SEAL)  
Printed Name: \_\_\_\_\_  
Lots: \_\_\_\_\_

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(SEAL)  
Printed Name: \_\_\_\_\_  
Lots: \_\_\_\_\_

\_\_\_\_\_  
(SEAL)  
Printed Name: \_\_\_\_\_  
Lots: \_\_\_\_\_

*Richard Humphrey*



Brunswick County, NC Register

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Brenda M. Clemmons PRO  
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(SEAL)  
Printed Name: ~~Richard Humphrey~~ RICHARD HUMPHREY Richard Humphrey  
Lots: 56 ~~8312 DOWNS ROAD~~ PLACE, SUNSET BEACH NC

*m c h*

(SEAL)  
Printed Name: Michelle Harrison Michelle Harrison  
Lots: 8310 Breakers Trace Ct. Sunset Beach NC 28468  
LOT 42

*Mary Jane Mathews*

(SEAL)  
Printed Name: Mary Jane Mathews Mary Jane Mathews  
Lots: 1123 Sea Bourne Way, Sunset Beach, NC 28468  
LOT 18

*Barry L Childress*

(SEAL)  
Printed Name: BARRY L. CHILDRESS Barry L. Childress  
Lots: 1111 SEA BOURNE WAY,  
LOT 15 SUNSET BEACH, N.C. 28468

*Daniel P. Northrup*

(SEAL)  
Printed Name: DANIEL P. NORTHRUP Daniel P. Northrup  
Lots: 1099 SEA BOURNE WAY  
LOT 12

*William E. Smith*

(SEAL)  
Printed Name: WILLIAM E. SMITH William E. Smith  
Lots: 1097 Sea Bourne Way, Sunset Beach, NC  
LOT 60 28468

*John Pokojny*

(SEAL)  
Printed Name: JOHN POKOJNY John Pokojny  
Lots: 1089 Sea Bourne Way  
LOT 8

*Steve + Dot Donby*

(SEAL)  
Printed Name: STEVE + DOT DONBY Steve + Dot Donby  
Lots: 1088 SEABOARD WAY  
LOT 61



Ronald P. Watson (SEAL)  
 Printed Name: RONALD P. WATSON Ronald P. Watson  
 Lots: 1072 SEABOURN WAY - SUNSET BEACH, N.C 28468  
 Lot 65

William Sams (SEAL)  
 Printed Name: WILLIAM SAMS William Sams  
 Lots: 1025 Seabourne way  
 Lot 78

Patricia Glennon (SEAL)  
 Printed Name: Patricia Glennon Patricia Glennon  
 Lots: 1127 sea Bourne way  
 Lot 14

Jeffrey Sanderson (SEAL)  
 Printed Name: Jeffrey Sanderson Jeffrey Sanderson  
 Lots: 1051 Papalide - Sunset Beach, NC 28468  
 Lot 1

Ralph F. Yarbrough (SEAL)  
 Printed Name: RALPH F. YARBROUGH Ralph F. Yarbrough  
 Lots: #16 Seabourne way

Peter H. Brockway (SEAL)  
 Printed Name: PETER BROCKWAY Peter Brockway  
 Lots: 8322 BREAKERS TRACE CT, SUNSET BEACH, NC  
 Lot 38

Timothy N. King (SEAL)  
 Printed Name: Timothy N. King Timothy N. King  
 Lots: 8323 BREAKERS TRACE COURT  
 Lot 37

Corey Bellamy (SEAL)  
 Printed Name: Corey Bellamy Corey Bellamy  
 Lots: 1118 Seabourne way 28468  
 Lot 45

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W-9: COI: WC: LW:

Bridget Cox (SEAL)  
Printed Name: Bridget Cox Bridget Cox  
Lots: 1056 Cape Side Wynd Lot 74

Robert J Swanson (SEAL)  
Printed Name: ROBERT J. SWANSON Robert J. Swanson  
Lots: 1059 CAPE SIDE WYND Lot 3

Kathy Vitelli (SEAL)  
Printed Name: Kathy Vitelli Kathy Vitelli  
Lots: 1067 Cape Side Wynd Lot 5

George Austin (SEAL)  
Printed Name: 1069 CAPE SIDE WYND George Austin  
Lots: 6

K. B. Smithwick (SEAL)  
Printed Name: Kimberly B. Smithwick Kimberly B. Smithwick  
Lots: 1076 Sea Bourn Way  
Lot 64

Craig Morris (SEAL)  
Printed Name: Craig Morris Craig Morris  
Lots: 1060 Cape Side Wynd  
Lot 75

Michael L. Criswell (SEAL)  
Printed Name: Michael L. Criswell Michael L. Criswell  
Lots: 1055 Cape Side Wynd  
Lot 2

Denise B. Mihal (SEAL)  
Printed Name: Denise B. Mihal Denise B. Mihal  
Lots: 1085 Sea Bourn Way  
Lot 7

Vicky Miller  
Printed Name: Vicky Miller Vicky Miller  
1064 Sea Bourn Way  
Lot 67



Ashley Lane (SEAL)  
Printed Name: Ashley Lane Ashley Lane  
Lots: 8307 Dunes Ridge  
Lot 47 Sunset Beach NC 28168

Michael D. Phipps (SEAL)  
Printed Name: MICHAEL D. PHIPPS Michael D. Phipps  
Lots: 1104 SEA BOURNE WAY  
Lot 57

Gregory M. Hansen (SEAL)  
Printed Name: GREGORY M. HANSEN Gregory M. Hansen  
Lots: 1100 SEA BOURNE WAY  
Lot 58

Martha W. Warner (SEAL)  
Printed Name: Martha W. Warner Martha W. Warner  
Lots: 1095 Sea Bourne Way  
Lot 10

Wray King (SEAL)  
Printed Name: Wray King Wray King  
Lots: 32

Wray King (SEAL)  
Printed Name: Wray King Wray King  
Lots: 8312 BARKERS HARBOR DRIVE  
Lot 41

Leigh Hansen (SEAL)  
Printed Name: Leigh Hansen Leigh Hansen  
Lots: 1093 Sea Bourne Way  
Lot 9

Kirk Riffel (SEAL)  
Printed Name: Kirk Riffel Kirk Riffel  
Lots: 1107 Sea Bourne Way  
Lot 14



*M Berwick*

(SEAL)

Printed Name: MICHAEL BERWICK Michael Berwick

Lots: 1096 SEABOURNE WAY  
Lot 59

*Linda E Berwick*

(SEAL)

Printed Name: LINDA E. BERWICK Linda E. Berwick

Lots: 1096 SEABOURNE WAY  
Lot 59

(SEAL)

Printed Name: \_\_\_\_\_

Lots: \_\_\_\_\_

(SEAL)

Printed Name: \_\_\_\_\_

Lots: \_\_\_\_\_

(SEAL)

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(SEAL)

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