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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 13th 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 13th 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 13th 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 13th 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 J L (SEAL)
Printed Name: Felicity Lavin Felicity Lavin
Lots: 04

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

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

____ (SEAL)
Printed Name: _____
Lots: _____

____ (SEAL)
Printed Name: _____
Lots: _____

____ (SEAL)
Printed Name: _____
Lots: _____

____ (SEAL)
Printed Name: _____
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: _____

Printed Name: _____ (SEAL)
Lots: _____

Printed Name: _____ (SEAL)
Lots: _____

Printed Name: _____ (SEAL)
Lots: _____



Sebastian Drapac

(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: _____

(SEAL)
Printed Name: _____
Lots: _____

(SEAL)
Printed Name: _____
Lots: _____

(SEAL)
Printed Name: _____
Lots: _____

(SEAL)
Printed Name: _____
Lots: _____

Richard Humphrey



Brunswick County, NC Register

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Brenda M. Clemmons PRO
of Deeds page 11 of 15

(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 SAM'S 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
Lots: 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)

Printed Name: _____

Lots: _____

(SEAL)

Printed Name: _____

Lots: _____

(SEAL)

Printed Name: _____

Lots: _____

(SEAL)

Printed Name: _____

Lots: _____