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NEW HANOVER COUNTY, NC

MORGHAN GETTY COLLINS

REGISTER OF DEEDS

NC FEE \$34.00

NORTH CAROLINA
NEW HANOVER COUNTY

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SUPPLEMENTAL DECLARATION AND AMENDMENTS TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS OF SUNSET REACH

This Supplemental Declaration and Amendments to Declaration of Covenants, Conditions, Restrictions and Easements of SUNSET REACH is entered into this the 15th day of February, 2024 by Hoosier Daddy, LLC a North Carolina limited liability company, hereinafter "Declarant" and Starboard Development, LLC, a North Carolina limited liability company, hereinafter "Owner of Sunset Towns".

WITNESSETH:

WHEREAS, the Declarant is the Owner of certain real property located in New Hanover County, North Carolina, which is more particularly described on the plats entitled Sunset Reach Phase 1 and recorded in Map Book 72, Page 143-144 of the New Hanover County Registry, Sunset Reach Phase 1 & 2 and recorded in Map Book 73, Pages 1-3 of the New Hanover County Registry, and Owner of Sunset Towns is the Owner of certain real property located in New

RETURN TO *JAMES YOPP*

Hanover County, North Carolina, which is more particularly described on the plat entitled Sunset Towns, recorded in Map Book 74, Pages 197 of the New Hanover County Registry and made a part hereof by reference (hereinafter "the Property"); and;

WHEREAS, Declarant had previously recorded the Declaration of Covenants, Conditions, Restrictions and Easements of Sunset Reach on October 25, 2022 at Book 6602, Page 2122-2141 of the New Hanover County Register of Deeds (the "Declaration"); and

WHEREAS, it is the desire of Declarant to invoke the powers granted to it pursuant to Article II, Section 1 of the Declaration to annex Additional Property into the Planned Community without the assent of the Members provided such action shall occur within ten (10) years of the date that the Declarant Control period ends; and

WHEREAS, the Declarant is within the time prescribed for annexation without approval of the Association; and

WHEREAS, it is also the desire of the Declaration to invoke the powers granted to it pursuant to Article XI, Section 4 of the Declaration to amend certain sections of the Declaration to increase the initial capital contribution, clarify the COD line, sidewalk and BUA requirements from governmental authorities, and provide for Limited Common Assessments and Special Assessments for the exterior maintenance and insurance obligations for the townhomes constructed on Lots 22-3, 22-4, 22-5, 22-6, 22-7, 22-8, 22-9, 22-10 and 22-11; and

WHEREAS, it is also the desire of the Owner of Sunset Towns to have Sunset Towns annexed into Sunset Reach so the lot owners in Sunset Towns can be members of the Sunset Reach Property Owners Association, Inc., but Sunset Towns shall provide its own exterior maintenance and building insurance; and

NOW, THEREFORE, Declarant declares that the Property described above shall be held, sold and conveyed subject to the North Carolina Planned Community Act set forth in Chapter 47F of the North Carolina General Statutes (the "Act"), made part of the Planned Community of Sunset Reach, and be held, sold and conveyed subject to the easements, restrictions, covenants, and conditions in the Declaration of Covenants, Conditions, Restrictions and Easements of Sunset Reach on October 25, 2022 at Book 6602, Page 2122-2141 of the New Hanover County Register of Deeds, with the only modifications being:

1. The deletion and replacement of Article 1, Sections 9, 11, 14, 15 and 16, which shall apply to all of the Property;
2. The deletion and replacement of Article VI, Sections 1, 2, 3, 6 and 10, which shall apply to all of the Property;
3. The deletion and replacement of Article IX, which shall apply to all of the Property;
4. The deletion and replacement of Article XI, which shall apply to all of the Property;
5. The addition of Article VIII, Sections 50 and 51, which shall apply to all of the Property;
6. The additional of Article XIII, which shall apply to all of the Property; and

7. The deletion and replacement of Article I, Section 9, which shall apply to only Phase 2.
8. The addition of Article VI, Section 11, which shall apply to only Phase 2; and
9. The addition of Article XII, which shall apply to only Phase 2:

ARTICLE I

Definitions

Section 9. "Limited Common Area" will mean and refer to those portions of the Common Area set aside for the exclusive use of some, but not all, Owners of Lots, including, but not limited to any real or personal property designated for use by specified Owners of Lots. The driveways, decks and patios of the nine townhomes constructed on Lots 22-3, 22-4, 22-5, 22-6, 22-7, 22-8, 22-9, 22-10 and 22-11 shall be Limited Common Area.

Section 11. "Member" shall mean and refer to all those Owners who are members of the Association, as provided in Article III, Section 1 hereof.

Section 14. "Properties" or "Subdivision" shall mean and refer to that certain real property hereinbefore described and more particularly shown on described on the plats entitled Sunset Reach Phase 1 and recorded in Map Book 72, Page 143-144 of the New Hanover County Registry, and Sunset Reach Phase 1 & 2 and recorded in Map Book 73, Pages 1-3 of the New Hanover County Registry, and Sunset Towns, recorded in Map Book 74, Pages 197 of the New Hanover County Registry and such additions thereto as may hereafter be brought within the jurisdiction of the Association or subject to this Declaration.

Section 15. "Sunset Towns" shall mean the sub-Association Sunset Towns POA, Inc., a North Carolina nonprofit corporation formed November 14, 2023 to govern and manage the Sunset Towns townhomes described on Map Book 74, Page 197 which is being annexed into the Association.

Section 16. "Townhome Owners" shall mean the owners of the nine townhomes constructed on Lots 22-3, 22-4, 22-5, 22-6, 22-7, 22-8, 22-9, 22-10 and 22-11. It shall not refer to the Sunset Towns Owners.

ARTICLE VI

Covenant for Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot (excluding) Declarant owned or Owner of Sunset Towns owned lots) by acceptance of a deed therefore, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree to pay the Association; (1) annual assessments or charges for the maintenance of the Common Areas, including such reasonable serves as the Association may deem necessary, (2) assessments for any of the purposes set forth in Section 2 of this Article, (3) special assessments for capital improvements or special assessments for townhomes, such assessments to be established and collected as hereinafter provided, and (4) specific assessments as hereinafter provided. The annual, special, and specific assessments, together with interest, costs of collection,

including reasonable administrative and collection fees incurred by the Association, and reasonable attorney's fees incurred, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such costs described above, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them. Approved builders do not have to pay assessments for six months after acceptance of a deed to a Lot. For the purposes of this Article, Approved Builder means a general contractor approved by Declarant or the Owner of Sunset Towns to construct more than one dwelling unit in Sunset Reach.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties (and their respective families, guests, tenants and invitees) and for the improvement, protection, replacement and maintenance of the Common Areas, the Riverfront Walk, including water and lights that run to the Riverfront Walk, the retaining walls surrounding the Property and the Walking Trail, the gate controlling the entrance to the Subdivision, Common Expenses, maintenance of the sidewalks in the community, maintenance of the retaining wall and fencing at Sunset Towns and for the provisions of various forms of insurance for the Association, its property, members, directors, officers, employees, and agents. For the nine townhomes constructed on Lots 22-3, 22-4, 22-5, 22-6, 22-7, 22-8, 22-9, 22-10 and 22-11, Limited Common Assessments shall also be collected for the exterior maintenance described in Article XII and for the insurance described in Article XIII, and the water/sewer utilities provided to those townhomes.

Section 3. Annual Assessment. The current annual assessment is \$2,400 per Lot and shall be adjusted annually by the Board of Directors, which shall be ratified by the Lots owners pursuant to 47F-3-103(c) of the North Carolina General Statutes. This annual assessment does not include any Limited Common Assessment levied against the Townhome Owners, which shall be a separate line item in the Association's annual budget.

Section 6. Notice and Quorum for Any Action Under Section 5. Written notice of any meeting called for the purposes of taking any action authorized under Section 5 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast twenty percent (20%) of all the votes of each class of membership shall constitute a quorum. If the quorum is not reached at the first meeting, the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 10. Capital Contribution. The first Owner of a Lot transferred from Declarant or Owner of Sunset Towns, including Approved Builders, shall pay an initial capital contribution to the Association in the amount of one thousand two hundred dollars (\$1,200). This is not a pre-payment of annual assessments but is a one-time fee to be used for working capital for the Association.

Section 11. Special Assessments for Townhomes. In addition to the regular annual Assessments and the Special Assessments for capital improvements described above, the Association may levy, from time to time, Special Assessments for the nine townhomes constructed on Lots 22-3, 22-4, 22-5, 22-6, 22-7, 22-8, 22-9, 22-10 and 22-11, to defray the cost of exterior maintenance and

increased insurance costs required to be provided by the Association. Any Special Assessment for the nine townhomes constructed on Lots 22-3, 22-4, 22-5, 22-6, 22-7, 22-8, 22-9, 22-10 and 22-11 shall be approved by at least six of the nine Townhome Owners.

ARTICLE VIII
Restrictions Upon Use of Lots and Structures

Section 50. No Construction Past COD Line. There shall be no construction of any structure beyond the COD line on any residential Lot, except any fence approved by the Association's Architectural Review Committee.

Section 51. Sidewalk Easements. The following Lots require five (5) foot wide sidewalks to be installed at the curb line prior to Certificates of Occupancy being obtained by a builder. Once constructed, the sidewalks shall be maintained by the Association, and the Association, its members, guests and tenants, shall have easements over these sidewalks. Lot Owners will continue to maintain their Lots up to the curb, except for the sidewalks.

Lot number	Location of sidewalk
22-6	Front
22-7	Front
22-8	Front
22-9	Front
22-10	Front
22-11	Front
23	Side only
24	Front and side
25	Front
26	Front
27	Front
28	Front
29	Front
30	Front
31	Front
32	Front and side
54	Front
55	Front
56	Front
57	Front
61	Front
61A	Front
62	Front
63	Front
64	Front
64A	Front
64B	Front

For Sunset Towns, Lots 9-1, 9-2, 9-3, 9-4, 10-1, 10-2, 10-3, 11-1, 11-2, 11-3, 11-4, 12-1, 12-2, 12-3, 12-4, 13-1, 13-2, 13-3, 13-4, 14-1, 14-2, 14-3, and 14-4, shall have sidewalks unless deemed not required by Owner of Sunset Towns.

Section 52. Easements for Townhomes. The Townhome Owners hereby grant an easement to the Association, by and through its Board of Directors or managers, to enter nine townhomes constructed on Lots 22-3, 22-4, 22-5, 22-6, 22-7, 22-8, 22-9, 22-10 and 22-11 in the event of emergencies, such as suspected water leaks.

ARTICLE IX

Restrictions Upon Use and Size of Structures

Section 1. All lots, except those reserved by the Declarant or designated as a Common Area, shall be used for single family residential detached or attached or multifamily purposes only, not to exceed the height restrictions of the local zoning ordinance. No mobile and/or prefabricated homes shall be placed upon said Lots. No structure shall be erected, placed or permitted to remain on any single-family detached Lot other than one single family detached residence dwelling.

Section 2. The minimum heated living area square footage of a residential dwelling on Lots 1-22, 22-1, and 22-2 is 2,400, and Lots 23-38 is 2,000. All other single family Lots have a minimum heated living area square footage of a residential dwelling of 1,800. (Exclusive of roofed or unroofed porches, decks, terraces, garages, carports and unfinished attic space). The nine townhomes constructed on Lots 22-3, 22-4, 22-5, 22-6, 22-7, 22-8, 22-9, 22-10 and 22-11 shall have a minimum heated square footage of 1,600 square feet and Sunset Towns units shall have a minimum heated square footage of 1,400 square feet.

Section 3. Yard setbacks shall be governed by the New Hanover County Unified Development Ordinance. The Declarant shall have the authority to approve variances if necessary and allowed by New Hanover County. In all circumstances the Declarant and/or the Architectural Review Committee shall approve all new construction plot plans and the improvements located thereon.

Section 4. Each Lot will have a maximum built upon surface area in accordance with governmental restrictions set out in Article XI. The Declarant shall allow Lot Owners and builders to make application to modify the impervious areas allowed per lot by transferring the same within the State Stormwater guidelines and regulations. Any modification to the allocation of built upon area shall require Association approval and shall be agreed upon by the Lot Owners desiring to reallocate built upon area between single family Lots they own.

The setbacks for each Lot shall be as set forth in this Declaration and on the map entitled Sunset Reach Phase 1 & 2, recorded at Map Book 73, Pages 1-3 of the New Hanover County Registry, if any but shall in no event be constructed to be less restrictive than local governmental regulations unless granted approval by same.

ARTICLE X
General Provisions

Section 1. Enforcement. The Association, or any Owner, or the Declarant, shall have the right to enforce by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, Bylaws, or reasonable rules and regulations adopted by the Board of Directors. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Costs, including reasonable attorney fees, shall be awarded to the prevailing party in any action or proceeding to enforce the provisions of the governing documents.

Section 2. Fines and Loss of Privileges. If any Owner, or his occupants, guests, tenants, or licensees, is in default of any of the provisions of this Declaration, Bylaws, or rules and regulations of the Association, including but not limited to payment of assessments, the Board may fine the Owner for such violation, or may revoke the Owner's privileges to use the amenities of the Association. The Board shall provide notice to the Owner and opportunity to be heard prior to the imposition of such fines or privileges.

Section 3. Severability. Invalidation of any one of these covenants or restrictions by judgement or court order shall in no way affect other provisions which shall remain in full force and effect.

Section 4. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, through January of the year 2040, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by a vote of not less than sixty-seven (67%) of the Lot Owners. The Board of Directors shall certify that any such Amendment has received that requisite vote percentage and that the voting procedures as provided in the Bylaws were duly exercised. Any Amendment to this Declaration must have the consent of Declarant for so long as Declarant owns any Lot in the Subdivision. No such Amendment shall be effective until recorded in the office of the Register of Deeds of New Hanover County. The Declarant shall have the right to unilaterally amend this Declaration so long as it owns a Lot, provided that such amendment shall not materially affect the substantive rights of any Lot Owner. The Declarant shall further have the right to amend the covenants without consent of the members to conform the Declaration to the requirements of any law or governmental agency having legal jurisdiction over the property, including those agencies sponsored by or under the control of the State of North Carolina. A letter from an official of any such agency requesting, requiring or suggesting an amendment necessary to comply with the requirements of such agency, shall be sufficient evidence to affect such an amendment. The amendment shall be effective upon recording.

Section 5. Streets. Each of the streets in the Subdivision now or hereafter designated on any plat, or which is constructed by Declarant as a road, access, drive or parking area on any Common Area is a private street, road, access, drive or parking area. Every park, stream, body of water, common area, recreational facility, and other amenity within the Subdivision is a private facility or amenity. The Declarant's recording of any plat or any other act of the Declarant with

respect to the Property shall not nor is intended to be construed as a dedication to the public of any said street, park, common area, recreational facility and amenity other than as reflected therein. An easement for the use and enjoyment of each of said streets and areas designated as parks is reserved to the Declarant, its successors and assigns, to the persons who are, from time to time members of the Association; to the members and Owners of any recreational facility; and to the residents, tenants and occupants of any residential buildings and all other kinds of residential structures that may be erected within the boundaries of the Subdivision and any additional property that may be annexed as provided above and to the invitees of all the aforementioned persons; the use of which shall be subject to such rules and regulations as may be prescribed by the Association, if the Association is the Owner of the facility or property involved. The Declarant may at any time dedicate the streets to a public authority if it so desires, or petition a public authority to withdraw public dedication for certain streets which are now public, so that those streets can become private and owned and maintained by the Association. Should any Owner interfere with Declarant or Developer's petition to have public streets become private, or should they in any way obstruct the acquisition of additional streets by the Association, said Owner(s) shall be liable for any and all expenses incurred by Declarant or Developer, its successors and/or assigns, for court costs, attorneys fees, road maintenance expenses, and any other damages caused by such interference and/or obstruction. Furthermore, said Owners, their successors and/or assigns, shall thereafter be fully responsible for contributing to Common Expense to maintain such streets.

Section 6. Enforcement. In the event of a violation or breach of any of these restrictions by any Owner, or agent of such Owner, the Owners of Lots in the Subdivision, or any of them, jointly or severally, shall have the right to proceed at law or in equity to compel a compliance with the terms hereof or to prevent the violation or breach in any event. In addition to the foregoing, the Declarant, its successors and assigns, shall have the right, whenever there shall have been built on any Lot in the Subdivision a structure which is in violation of these restrictions, to enter upon the property where such violation exists and summarily abate or remove the same at the expense of the Owner, if after the thirty (30) days written notice of such violation, it shall not have been corrected by the Owner. The Association is hereby granted a perpetual easement across each Lot for the purposes of carrying out its responsibilities under this Section, and any such entry and abatement or removal shall not be deemed a waiver of the rights to do so hereafter as to the same breach or as to a breach occurring prior of subsequent thereto and shall not bar or affect its enforcement. Should Declarant employ counsel to enforce any of the foregoing covenants, conditions, reservations or restrictions, because of a breach of the same, all costs incurred in such enforcement, including a reasonable fee for Declarant's counsel, shall be paid by the Owner of such Lot or Lots in breach thereof.

Section 7. The Declarant herein shall not in any way or manner be liable or responsible for any violation of these restrictions by any person other than itself.

Section 8. In the event that any of the provisions hereof are declared void by a court of competent jurisdiction by reason of the period of time herein stated for which the same shall be effective, then in that event such term shall be reduced to a period of time which shall not violate the rule against perpetuities or any other law of the state of North Carolina, and such provision shall be fully effective for said reduced period of time.

Section 9. Interpretation. DECLARANT, ITS SUCCESSORS AND/OR ASSIGNS SHALL MAKE ALL FINAL INTERPRETATIONS AS TO THE MEANING AND INTENT OF THESE COVENANTS.

ARTICLE XI.

Stormwater

The following covenants are intended to ensure ongoing compliance with State Stormwater Management Permit Number SW8 061026 MOD, as issued by the Division of Energy, Mineral and Land Resources, (the "Division") under 15A NCAC 2H.1000.

The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the Stormwater Management Permit.

These covenants are to run with the land and be binding on all persons and parties claiming under them.

The covenants pertaining to stormwater may not be altered or rescinded without the express written consent of the Division.

Alteration of the drainage as shown on the approved plans may not take place without the concurrence of the Division.

The maximum allowable built-upon area per single-family lot is as follows:

Lot Number	BUA	Lot Number	BUA
1	4,000	37	5,000
2	4,000	38	5,000
3	4,000	39	4,000
4	4,000	40	4,000
5	4,000	41	4,000
6	4,000	41A	4,000
7	5,000	42	4,350
8	5,000	43	4,000
9	5,000	44	5,000
10	5,000	45	5,000
11	5,000	46	5,000
12	5,000	47	5,000
13	5,000	48	5,000
14	5,000	49	5,000
15	5,000	50	5,000
16	5,000	51	5,000
17	5,000	52	5,000
18	5,000	53	4,000
19	4,000	54	3,000
20	4,000	55	4,000

21	4,000	56	4,000
22	4,000	57	4,000
22-1	4,000	58	4,000
22-2	4,000	59	4,000
23	5,000	60	4,000
23A	5,000	61	4,000
24	5,000	61A	4,000
25	5,000	62	4,350
26	5,000	63	4,350
27	5,000	64	3,500
28	5,000	64A	3,025
29	5,000	64B	3,025
30	4,000	65	4,350
31	4,000	66	4,350
32	5,000	67	4,350
33	5,000	68	4,350
34	5,000		
35	5,000		
36	5,000		

This allotted amount includes any built-upon area (BUA) constructed within the lot property boundaries, and that portion of the right-of-way between the front lot line and the edge of the pavement not shown on the approved plans. BUA has the same meaning as G.S. 143-214.7, as amended.

For those lots within the CAMA Area of Environmental Concern, where DCM calculates a different maximum lot BUA, the governing maximum lot BUA shall be the more restrictive of the two amounts.

The maximum allowable BUA shall not be exceeded on any lot until the permit is modified to ensure compliance with the stormwater rules, permit, and the approved plans and specifications.

All runoff from the BUA on the Lot must drain into the permitted system. This may be accomplished via grading, a stormwater collection system, and/or a vegetated conveyance.

Any individual or entity found to be in noncompliance with the provisions of a stormwater management permit or the requirements of the stormwater rules is subject to enforcement procedures as set forth in NCGS 143, Article 21.

If credit for infiltrating permeable pavement is desired, the lot owner must submit an application along with supporting documentation, listed below, to the permittee or his designated representative and receive approval prior to construction of the infiltrating permeable pavement, meeting the most current minimum design criteria, 15A NCAC 02H.1050 MDC for All Stormwater Control Measures and 15A NCAC 02H.1055 MDC for Permeable Pavement.

1. A completed and signed Standard Process Application Form. This form may be obtained on the Division's website;
2. A location map with street names and SR numbers to the nearest intersection, with 1, 2, or 3 digit road numbers, legend, and north arrow. This map is not required to be to scale;
3. Signed, sealed, and dated calculations that the permeable pavement is capable of infiltrating the 1.5-inch design storm;
4. The most current permeable pavement supplement;
5. Signed, sealed, and dated plans of the entire site that are at a legible scale. All plan packages shall include:
 - a. Project name, designer, and dates;
 - b. Dimensioned project or project phase boundary with bearings and distances;
 - c. The boundaries of all surface waters, wetlands, regulatory flood zones, protected vegetated setbacks, and protected riparian buffers, or a note on the plans that none exist;
 - d. Proposed contours and drainage patterns;
 - e. Site layout showing all existing and proposed built-upon areas;
 - f. Location and dimensions of the permeable pavement;
6. A signed and notarized operation and maintenance agreement.
7. For infiltrating permeable pavement systems, a site-specific soil investigation shall be performed and report provided to establish the hydraulic properties and characteristics within the proposed footprint and at the proposed elevation of the permeable pavement system.

Upon completion of the infiltrating permeable pavement, a copy of the Designer Certifications must be provided to the permittee.

Prior to the sale or ownership transfer of any lot where permeable pavement has been installed to a new owner, the permittee shall ensure the seller provides a copy of the previously approved permeable pavement application package and the completed Designer's Certifications to the buyer. The permittee shall also require the buyer to sign an Operation and Maintenance Agreement prior to closing.

The townhomes constructed on Lots 22-3, 22-4, 22-5, 22-6, 22-7, 22-8, 22-9, 22-10 and 22-11 have a total allocation of 22,695 square feet of maximum allowable built upon area.

ARTICLE XII.

Maintenance Obligations For The Nine Townhomes Constructed on
Lots 22-3, 22-4, 22-5, 22-6, 22-7, 22-8, 22-9, 22-10 and 22-11

Section 1. Party Walls.

- (a) Each wall which is built as part of the original construction of the nine townhomes constructed on Lots 22-3, 22-4, 22-5, 22-6, 22-7, 22-8, 22-9, 22-10 and 22-11 and placed on the dividing line between those Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rule of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.
- (b) Adjoining Owners shall be responsible for any maintenance of any party wall. The Owners shall share equally the cost of any such maintenance.
- (c) If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it; and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.
- (d) Notwithstanding any other provision of this Article, an Owner who by his neglect or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.
- (e) The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.
- (f) Adjoining Owners hereby grant easements to each other for HVAC venting to run through party walls.

Section 2. By the Association. The Association shall maintain and keep in good repair, as a Limited Common Expense, all of the Townhome Common and Limited Common Elements, including but not limited to the landscaped areas in the Townhome Common and Limited Common Elements.

The Association shall maintain, repair and replace as a Limited Common Expense the exterior of the nine townhomes constructed on Lots 22-3, 22-4, 22-5, 22-6, 22-7, 22-8, 22-9, 22-10 and 22-11 ("The Townhomes") as follows:

(a) Exterior surfaces, as decided by the Board of Directors, in its sole discretion. Exterior surfaces shall not include any portion of the foundation of the Townhomes or any exterior surfaces not visible from outside of the Townhomes.

(b) Siding.

(c) Soffits.

(d) Roofs, roof coverings, roof flashing, roof decks and roof vents.

(e) Front Doors (but not including locks).

(f) Decks and Patios, however the costs for this maintenance shall be a Limited Common Expense since decks and Patios are Limited Common Elements.

Notwithstanding anything above that could be construed to the contrary, the Lot Owners (and not the Association) shall have maintenance, repair and replacement responsibility for the following:

(a) All glass surfaces (window panes, glass doors, etc.).

(b) Windows and window systems, including screens.

(c) Exterior water faucets.

(d) Garage doors.

(e) All portions of the driveways

(f) Exterior electrical outlets, wires or cables.

(g) Entry doorbell.

(h) HVAC.

(i) Exterior Lights and fixtures.

(j) Any Owner added improvements.

(k) Exterior vents for bathrooms, dryers and stoves.

(l) Any other portion of the Townhome or Lot not specifically required to be maintained, repaired or replaced by the Association.

The Association shall be authorized to perform, after fifteen (15) days' written notice to a Lot Owner, any maintenance, repair or replacement upon a Lot for which the Owner is responsible and to

charge the Owner, as provided for Assessments herein, with the costs of maintenance, repair or replacement plus fifteen per cent (15%).

Section 3. By the Owner. Every Townhome Owner shall maintain, repair, and replace at his expense all portions of his Townhome which are not maintained by the Association as set forth in Section 2 above. Each Lot owner shall maintain, repair, and replace, when necessary, all damage to the Townhome and any other permanent structures located on the Lot unless the Association or its insurance coverage is responsible for remedying any such damage. All damages to the Common Elements intentionally or negligently caused by a Lot owner, his family, guests, invitees, agents, servants, lessees, employees, or contractors shall be repaired promptly by such Lot owner, except to the extent such damage is covered by hazard insurance required to be maintained by the Association, in which case the Association waives its right of indemnity to the extent of funds received and paid pursuant to said insurance policy. If the Lot owner defaults in his obligations herein and if any such default is not cured by him within fifteen (15) days from written demand by the Association, the same may be cured by the Association and the cost thereof shall be assessed against the Lot owned by the subject Lot owner. The Owners shall be responsible for maintenance and repair to all utilities and services to the Lots.

Section 4. Freeze Damage Protection. The Board of Directors may make Rules and Regulations as it deems necessary to implement and enforce freeze prevention measures.

Section 5. Repairs to Water/Sewer Lines and Equipment Servicing the Nine Townhomes Constructed on Lots 22-3, 22-4, 22-5, 22-6, 22-7, 22-8, 22-9, 22-10 and 22-11. The Association shall maintain, repair and replace, when necessary, all water/sewer lines and equipment which is required to be maintained, repaired and replaced pursuant to the wastewater collection system Permit No. WQ0043414. The maintenance, repair and replacement obligated by this Section shall be a Limited Common Expense to the nine townhomes constructed on Lots 22-3, 22-4, 22-5, 22-6, 22-7, 22-8, 22-9, 22-10 and 22-11.

ARTICLE XIII.

Insurance Obligations

Section 1. Coverage. To the extent reasonably available, the Board of Directors shall obtain and maintain insurance coverage set forth herein, as a Limited Common Expense to the Townhome Owners in accordance with this Article. If such insurance is not reasonably available, and the Board of Directors determines that any insurance described herein will not be maintained, the Board shall cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all Townhome Owners at their respective last known addresses.

Section 2. Property and Casualty Insurance. The Association shall procure and maintain property and casualty insurance in an amount equal to 80% replacement cost value for the Townhomes constructed on Lots 22-3, 22-4, 22-5, 22-6, 22-7, 22-8, 22-9, 22-10 and 22-11 and in an amount equal to 100% of the replacement value of any structure constructed on the Townhome Common and Limited Common Elements insuring against all risks of direct physical loss, including fire and extended coverage periods. If the Association shall determine that it would be more economically feasible in lieu of the Association maintaining a master property and

casualty insurance policy for the entire project, for the Owners to purchase insurance policies covering each Townhome Lot individually, then upon the unanimous consent of all Townhome Owners, the insurance coverage described herein may be turned over to the Townhome Owners to purchase individual policies. If the responsibility for maintaining the insurance coverage on the project is turned over to the individual Townhome Owners, then the Association shall be named as additional insured on each policy, each Townhome shall be insured for its full replacement value, and the provisions of Section 5 shall be modified accordingly.

Section 3 **Liability Insurance.** The Association shall maintain liability insurance in reasonable amounts covering all occurrences, commonly insured against for death, bodily injury, and property damage rising out of or in connection with the use, ownership, or maintenance of the Common Elements and covering the Association, the Board of Directors, Officers, and all agents and employees of the Association and all Lot Owners and persons entitled to occupy any Lot or other portion of the Planned Community.

Section 4 **Policy Requirements.** the insurance policies carried in accordance with Sections 2 and 3 above must provide that:

1. Each Lot Owner is an insured person under the policy to the extent of the Lot Owner's insurable interest;
2. The insurer waives its right of subrogation under the policy against any Lot Owner or members of the Lot Owner's household;
3. No act or omission by any Lot Owner, unless acting within the scope of his or her authority on behalf of the Association, will preclude recovery under the policy; and
4. If, at the time of a loss under the policy, there is other insurance in the name of a Lot Owner covering the same risk covered by the policy, the Association's policy provides primary insurance, except as provided herein.

Section 5 **Association as Trustee.** All such insurance coverage shall be written in the name of the Association as trustee for itself, each of the Owners, and the mortgagees of Owners, if any. The proceeds from property and casualty insurance claims shall be payable to the Association as trustee for all Lot Owners and mortgagees of Owners. It shall be the duty of the Board of Directors at least annually to conduct an insurance review to determine that the policies in force are adequate to meet the risks of the Association. Such a responsibility may be performed and shall be deemed reasonably performed by the Board requesting the Association's insurance agent to verify insurance policies in existence to meet the needs of the Association. All insurance shall run to the benefit of the Association, the respective Lot Owners, and their respective mortgagees as their interests may appear. Policies may contain reasonable deductibles, the payment of which shall be controlled by Section 8.

Section 6 **Other Insurance.** The Board of Directors may also obtain as a Common Expense:

1. Worker's Compensation Insurance if and to the extent necessary to meet the requirements of North Carolina law;
2. Officers and Directors Liability Insurance in such amount as the Board may determine. Such insurance shall contain a cross liability endorsement;
3. Such other insurance as the Board of Directors may determine to be necessary.

Section 7 Insurance By Owners. Owners are required to maintain property insurance to adequately insure the replacement cost of the drywall, wallcovering, flooring and contents of each Townhome, fixtures and appliances in each Townhome, and any upgrades or betterments made to each Townhome or Lot after original construction. Owners are also required to maintain flood insurance to adequately insure the structure of each Lot.

Section 8. Insurance Deductibles. Notwithstanding any other provisions of the Declaration or Bylaws, this Section shall control and interpret who is liable for any deductible under any insurance policy purchased by the Board. The deductible, if any, on any insurance policy purchased by the Board shall be paid by the Association as a Limited Common Expense to the Townhome Owners in the event that the cause of any damage or destruction to any portion of the Townhome originated in or through the Common Elements or an apparatus located within the Common Elements; provided, however, that the Board may assess any deductible amount necessitated by either the intentional act or omission, negligence, abuse, misuse or neglect of a Lot Owner, or his or her family, guest, tenant or the family or guest of said tenant, against such Lot Owner. In the event that the cause of any damage or destruction to any portion of the Townhome (Townhome, Common Elements or Limited Common Elements) originated in or through a Townhome or any component thereof, including, but not limited to, any water leak, discharge or overflow from a toilet, sink, shower, bathtub, water heater, ice maker, washer, pipe, appliance, aquarium, water bed, dishwasher, HVAC, window or door, then the Owner of said Townhome shall pay for all damages up to the amount of the deductible under the Association's insurance policy without regard to whether the Lot Owner or his or her family, guest, tenant or the family or guest of said tenant was negligent, and without regard to whether the Board, in its sole and unconditional discretion, decides not to submit a claim to the insurance company. Nothing herein shall be deemed to require that the Association maintain, repair or replace any portion of the Townhome that it is not otherwise required to maintain, repair or replace under the Declaration or the Bylaws. Nothing herein shall be deemed to require the Association to make an insurance claim for any damage that is less than the amount of the applicable deductible, even if the claim would have been a covered loss under the Association policy. If the amount of the loss is less than the amount of the deductible, the Association is not liable for repairing the claimed damage unless the claimed damage otherwise falls under the Association's maintenance obligation. If a Lot Owner fails to pay for all damages up to the amount of the deductible under the Association's insurance policy and the Association pays for any damages up to the amount of the deductible under the Association's insurance policy, then the costs paid by the Association shall be charged to the Lot Owner as an assessment for which the Association shall have a lien.

IN TESTIMONY WHEREOF, Declarant and Owner of Sunset Towns have caused this Declaration to be signed in their corporate names by their managers pursuant to their authority as of the day and year first above written.

Hoosier Daddy, LLC

A North Carolina limited liability company

By: [Signature]
Manager
JACK CARLISLE

State of North Carolina

County of New Hanover

I, the undersigned Notary Public of the County and State aforesaid, certify that Jack Carlisle personally came before me this day and acknowledged that he is the Manager of Hoosier Daddy, LLC, 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 15 day of February, 2024.

My Commission Expires: 10/22/2028



Starboard Development, LLC,

a North Carolina limited liability company

By: [Signature]
JACK CARLISLE, Manager

State of North Carolina

County of New Hanover

I, the undersigned Notary Public of the County and State aforesaid, certify that Jack Carlisle personally came before me this day and acknowledged that he is the Manager of Starboard Development, LLC, 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 15 day of February, 2024.

My Commission Expires: 10/22/2028



MORGHAN GETTY
COLLINS
Register of Deeds

New Hanover County

Register of Deeds

320 CHESTNUT ST SUITE 102 • WILMINGTON, NORTH CAROLINA 28401
Telephone 910-798-4530 • Fax 910-798-7716



State of North Carolina, County of NEW HANOVER
Filed For Registration: 02/15/2024 02:50:36 PM
Book: RB 6689 Page: 1348-1365
18 PGS \$34.00
Real Property \$34.00
Recorder: STEPHANIE PEREZ
Document No: 2024003506

DO NOT REMOVE!

This certification sheet is a vital part of your recorded document. Please retain with original document and submit when re-recording.