

Index with Deed Book 2640 at Page 787  
and Deed Book 3989 at Page 1899

**ALL OR SOME OF THIS AGREEMENT MAY BE SUBJECT TO ARBITRATION  
PURSUANT TO SECTION 15-48-10 ET SEQ. OF THE SOUTH CAROLINA CODE OF  
LAWS (THE SOUTH CAROLINA UNIFORM ARBITRATION ACT).**

STATE OF SOUTH CAROLINA     )  
  )  
  )  
COUNTY OF HORRY            )     **DECLARATION OF COVENANTS,  
  )     CONDITIONS AND RESTRICTIONS  
  )     FOR LOTS 105, 106A AND 106 B  
  )     DYE ESTATES**

**THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LOTS 105, 106A AND 106B DYE ESTATES** (this "**Declaration**") is made this 13<sup>th</sup> day of July, 2018, by **D.R. HORTON, INC.**, a Delaware corporation ("**Declarant**"), **COASTAL RESORT HOLDINGS, LLC**, a North Carolina limited liability company ("**Coastal**") and **THE DYE ESTATES HOMEOWNERS ASSOCIATION, INC.**, a South Carolina non-profit corporation ("**Dye Estates HOA**"). Declarant, Coastal and Dye Estates HOA being collectively referred to as the "**Parties**".

**RECITALS:**

**WHEREAS**, Declarant has purchased the real property described in **Exhibit "A"** attached hereto (the "**Blackwater Property**") from Coastal, and plans to develop and subdivide into Forty-Five (45) attached townhome lots, Twenty-Six of which are planned as Phase I and Nineteen of which are planned as Phase II; and

**WHEREAS**, Coastal is the owner of the real property described in **Exhibit "B"** attached hereto (the "**Lot 106B Property**"), which Lot 106B Property is the subject of a purchase agreement between Declarant and Coastal, and if, purchased by Declarant, would become a part of the Blackwater Property and also developed and subdivided into attached townhome lots; and

**WHEREAS**, the Blackwater Property, the Lot 106B Property and all of the property which is governed by the Dye Estates HOA is subject to that certain Declaration of Covenants, Conditions and Restrictions for Barefoot Resort Residential Properties, recorded April 13, 2000 in Deed Book 2251 at Page 384, public records of Horry County, South Carolina (the "**Master Declaration**"); and

**WHEREAS**, prior to Coastal's purchase of the Blackwater Property and the Lot 106B Property, the Blackwater Property and the Lot 106B Property were subjected to certain agreements and restrictions pursuant to that instrument entitled "Agreement Regarding Dye Cabins", recorded September 10, 2003 in Deed Book 2640 at Page 787, public records of Horry County, South Carolina (the "**Dye Cabins Agreement**"); and

**WHEREAS**, prior to Declarant's purchase of the Blackwater Property, the Blackwater Property and the Lot 106B Property were subjected to certain agreements and restrictions pursuant to that instrument entitled "Agreement Regarding Lots 105 and 106 in the Dye Estates", recorded February 22, 2017 in Deed Book 3989 at Page 1899, public records of Horry County, South Carolina (the "*Lot 105 and 106 Agreement*"); and

**WHEREAS**, following Declarant's acquisition of the Blackwater Property, which is subject to the Lot 105 and 106 Agreement, Declarant determined that certain conflicts and inconsistencies exist between the Dye Cabins Agreement, the Lot 105 and 106 Agreement, and the Blackwater Plans, and it is in the best interest of the Blackwater Property, and the other parties to the Lot 105 and 106 Agreement to amend and restate the Dye Cabins Agreement and the Lot 105 and 106 Agreement so as to avoid any future disputes regarding such conflicts and inconsistencies; and

**WHEREAS**, the intent of this Declaration is to amend and restate both the Dye Cabins Agreement and the Lot 105 and 106 Agreement, and to more fully set forth the Covenants, Conditions and Restrictions applicable to the Blackwater Property and the Lot 106B Property.

**NOW, THEREFORE**, Declarant, being joined by Coastal, declare that this Declaration and the covenants, conditions and restrictions established herein shall be deemed covenants to run with the land and an equitable servitude on the Blackwater Property and the Lot 106B Property (collectively the "*Subject Property*"), and that all of the Subject Property is subject and subordinate to the terms, provisions and conditions hereof, to the extent provided herein. By recording or acceptance of the conveyance of any portion of the Subject Property, or any interest therein, the person or entity to which such interest is conveyed shall be deemed to accept and agree to be bound by the provisions of this Declaration.

## **ARTICLE I** **PURPOSE AND CREATION**

**Section 1.1 Creation, Purpose and Intent.** Declarant and Coastal, as the owners of the Subject Property, intend by recording of this Declaration to create restrictions on the Subject Property, which restrictions shall be in lieu of and replace both the Dye Cabins Agreement and the Lot 105 and Lot 106 Agreement.

**Section 1.2 Binding Nature of Declaration.**

(a) The Subject Property as described on **Exhibit "A"** and **Exhibit "B"** attached hereto, is made subject to this Declaration and shall be owned, conveyed and used subject to all of the provisions of this Declaration, which shall run with the title to such Subject Property. This Declaration shall be binding upon all Persons having any right, title or interest in any portion of the Subject Property.

(b) This Declaration shall be enforceable by Declarant, Coastal, the Dye Estates HOA, and their respective successors and assigns, and unless terminated as provided in Section 1.2(c), shall have perpetual duration. If South Carolina law hereafter limits the period during which

covenants may run with the land, then to the extent consistent with such law, this Declaration shall automatically be extended at the expiration of such period for successive periods of Twenty (20) years each, unless terminated as provided below. Notwithstanding the above, so long as South Carolina law recognizes the rule against perpetuities, if any of the provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue for the maximum time allowed by law, but no less than until 21 years after the death of the last survivor of the now living descendants of President Donald J. Trump.

(c) Unless otherwise required by South Carolina law, this Declaration may not be amended or terminated except by an instrument signed by Dye Estates HOA, Declarant and Coastal, if Coastal owns any portion of the Subject Property. Any such instrument shall set forth the intent to amend or terminate this Declaration and shall be recorded in the Office of the Register of Deeds for Horry County, South Carolina.

(d) If any court finally determines that a provision of this Declaration is invalid, in whole or as applied in a particular instance, such determination shall not affect the validity of other provisions or applications.

## **ARTICLE II** **DEFINITIONS**

Terms used in this Declaration shall generally be given their natural, commonly accepted meanings except as otherwise specified. Capitalized terms shall be defined as set forth below or as otherwise defined throughout this Declaration.

**Section 2.1** “*Owner*” means any one or more Persons who hold the record title to any portion of the Subject Property, but excluding in all cases any party holding an interest merely as security for the performance of an obligation.

**Section 2.2** “*Person*” means a natural person, a corporation, a partnership, a trustee of any other legal entity.

**Section 2.3** “*Declarant*” means D.R. Horton, Inc., a Delaware corporation, or any of its successors, successors-in-title, or assigns who are or may be assigned any of the rights, duties, responsibilities, and obligations of Declarant as Declarant of this Declaration, pursuant to a recorded instrument executed by the immediately preceding successors, successors-in-title, or assigns to those rights, duties, responsibilities and obligations assigned, but only to the extent of such assignment.

**Section 2.4** “*Lot*” means a portion of the Subject Property, whether improved or unimproved, which may be independently owned (and may be defined by a subdivision plat, a legal property description, or other means intended to show or describe the property as a distinct and legally definable portion) and is intended for development, use and occupancy. The term shall refer to the land and any improvements thereon.



**Section 2.5** “*First Class Condition*” means in a well maintained condition, represented by the exterior surfaces of all improvements to the Subject Property being maintained so as to preserve painted surfaces in uniform, consistent colors, roofing and other materials to be maintained in a uniform and high quality position, windows and glass replaced and repaired so no broken glass is allowed to continue to a period of more than ten (10) days, except in the event of a natural disaster, hardscapes and amenity areas maintained a clean and current state of repair, with any broken or missing elements replaced in a reasonable time period, and landscaping maintained in a fresh, irrigated, weeded, fertilized and aesthetically pleasing condition. To the extent that any state, federal or local ordinance or regulation, now or in the future (collectively the “*Regulations*”) require a higher or stricter standard than the requirements of this Declaration, such higher standard shall be applicable and shall govern the Subject Property.

**Section 2.6** “*Construction Activities*” means the initial construction of the site development, utilities, roadways, residential improvements, amenities and common area improvements, including landscaping on any portion of the Subject Property.

**Section 2.7** “*Common Area(s)*” means the roads, green areas and detention areas located on the Blackwater Property and/or the Lot 106B Property and not located on property owned by the Dye Estates HOA, together with any improvements thereon and with any other amenities or real property conveyed to, owned by, or leased to homeowners association formed pursuant to any Subject Property CCRs, as defined below.

**Section 2.8** “*Improvements*” shall mean buildings, outbuildings, underground utility and irrigation installations, slope alterations, curb cuts, driveways, parking areas, fences, screening walls and barriers, retaining walls, stairs, decks, patios, windbreaks, plants, trees, shrubs, berms, poles, signs and all other structures or landscaping improvements of every kind and type located on the Subject Property, but shall not include any utilities or roads or streets which have been dedicated to and accepted for maintenance by the City of North Myrtle Beach.

**Section 2.9** “*Subject Property*” shall mean, collectively the Blackwater Property and the Lot 106B Property, or any portion thereof.

**Section 2.10** “*Gray Heron Drive*” shall mean the right-of-way and all improvements within such right-of-way, of Gray Heron Drive, a private roadway being shown and described on that certain Bonded Final Plat entitled “THE DYE ESTATES” AT BAREFOOT RESORT, NORTH MYRTLE BEEACH, HORRY COUNTY, SOUTH CAROLINA” dated July 13, 2000, recorded December 8, 2000, recorded in Plat Book 173 at Pages 238A and B; as such plat was last revised on December 22, 2000, and recorded in Plat Book 174 at Pages 241A and B, public records of Horry County, South Carolina.

### **ARTICLE III** **RESTRICTIONS**

**Section 3.1** **Withdrawal of Subject Property from Dye Estates.** The Parties acknowledge that the Subject Property is presently a part of the Dye Estates, and subject to that certain Declaration of Covenants, Conditions and Restrictions for The Dye Estates, recorded December

20, 2000, in Deed Book 2328 at Page 745, in the public records of Horry County, South Carolina (the "***Dye Estates Declaration***"). The Parties intend to withdraw the Subject Property from the Dye Estates, and release the same from the Dye Estates Declaration, pursuant to ratification by a vote of the membership of the Dye Estates HOA, which vote shall occur not later than the annual meeting of the Dye Estates HOA, which is currently planned for September 21, 2018, and upon such ratification which vote shall be evidenced by the recording of that Third Amendment to Declaration of Covenants, Conditions and Restrictions for The Dye Estates in the public records of Horry County, South Carolina, the form of such Third Amendment being attached hereto as **Exhibit "C"** (the "***Third Amendment***").

In the event the Subject Property is not withdrawn from Dye Estates and therefore not released from the Dye Estates Declaration, the Master Declaration shall continue to encumber the Subject Property, the Dye Estates Declaration shall continue to encumber the Subject Property, and this Declaration shall continue to apply to and encumber the Subject Property, the Subject Property shall continue to be subject to any assessments under such respective instruments, and each such respective instrument shall be prior in time and superior to the Subject Property CCRs, as defined below. For purposes of assessments and other amounts due hereunder and under the Dye Estates Declaration, following the date on which a vote to withdraw the Subject Property from Dye Estates fails, the Dye Estates HOA may thereafter elect to bill the entire amount of any such assessments and other amount due hereunder for any Lot (including any Attached Home, as defined below) directly to the homeowners association or homeowners associations for such Subject Property in lieu of individual billings, provided that such election shall not impact or impair the rights of the Dye Estates HOA, including the attachment of liens, and judicial foreclosure in the event of a failure to pay. Any and all assessments or other amounts due hereunder from the Subject Property to the Dye Estates HOA shall bear interest at the rate of Eighteen (18%) percent per annum from the date which is Thirty (30) days following the date of the invoice for such assessment or other amounts due. To the extent that the Dye Estates HOA current bulk services agreement with Horry Telephone Cooperative cannot be prorated for direct bill to the homeowners association or homeowners associations for the Subject Property, the Dye Estates HOA may also bill such amounts as a lump sum to such homeowners association or homeowners associations for the Subject Property, and will have no obligation to bill directly to individual homeowners within the Subject Property.

### **Section 3.2 Additional Easements, Restrictions and Contributions Upon Withdrawal.**

Upon the withdrawal of the Subject Property from the Dye Estates Declaration, in addition to being subject to that certain Declaration of Covenants, Conditions and Restrictions for Barefoot Resort Residential Properties, recorded in Deed Book 2251 at Page 384, in the public records of Horry County, South Carolina (the "***Master Residential Declaration***"), and subject to this Declaration, Declarant and Coastal agree that, prior to the subdivision of any portion of the Subject Property owned by either of them respectively (which subdivision is a requirement for conveyance to any third party), that each will submit the same to a Declaration, Master Deed or other form of restrictions requiring that the Owners of the Subject Property, shall be subject to assessments, dues or other charges thereunder (collectively the "***Subject Property CCRs***") (it being a requirement of the City of North Myrtle Beach that a copy of such Subjection Property CCR is delivered together that such plat for subdivision), which shall include, but not be limited to their respective pro-rata share of the assessments under the Subject Property CCRs, the Master Residential Declaration,



under this Declaration and any assessments, due or other charges under that certain Easement, Roadway Maintenance and Cost Sharing Agreement, dated of even date herewith, which is to be recorded in the public records of Horry County, South Carolina simultaneously with this Declaration (the "**Roadway Agreement**"), and prior to the Subject Property CCRs. The requirement of the Subject Property CCRs, and the corresponding property owners association, is intended as an absolute bar to the sale of any home within the Subject Property prior to recording of such Subject Property CCRs, the assurance of such Subject Property CCRs and their respective property owners association(s) being of substantial benefit of the Dye Estates HOA and the requirement of such Subject Property CCRs and their respective property owners association(s) being an inducement for the execution of this Agreement by the Dye Estates HOA.

**Section 3.3 Submittal of Plans for Blackwater Property.** Declarant has submitted to the City of North Myrtle Beach, South Carolina, and The Dye Estates HOA, certain plans and specifications, including site development plans, building elevations, material list, color palettes, landscape plans (including berm details), landscape materials, lighting details and signage details (collectively the "**Blackwater Plans**", a more detailed description of which is attached hereto as **Exhibit "E"**), and miniaturized copies of which are also attached hereto as part of **Exhibit "E"**, which Blackwater Plans the Dye Estates HOA has had the opportunity to review, comment on, and request revisions and modifications, each of which Declarant has complied with to the satisfaction of the Dye Estates HOA. The Parties acknowledge that Declarant shall be bound by the Blackwater Plans, except to the extent the same may be changed as a requirement of the City of North Myrtle Beach (the "**City**"), any other material change requirement the approval of the Dye Estates HOA, which approval shall not be unreasonably withheld or delayed. The Parties further agree that, in the event Declarant should acquire the Lot 106B Property, Declarant shall develop the same consistent with the Blackwater Plans, so that the Subject Property will thereafter appear to be one seamless and consistent development.

**Section 3.4 Restriction On Short Term Rentals, Timeshare Ownership.** The Parties agree that the Subject Property, and any portion thereof, shall not be used for or subject to any type of short term rental arrangement for a rental term of less than Three Hundred Sixty Five (365) days, any such lesser period being referred to as a "**Short Term Rental**", and the Subject Property shall not be used for or subject to any type of Vacation Time Sharing Plan or Vacation Multiple Ownership Plan, as defined by S.C. Code Ann. § 27-32-10, et seq. (1976), as amended, or any fraction-sharing, residence club, vacation club, or similar program whereby the right to exclusive use rotates among participants in the program on a fixed or floating time schedule over a period of years, or is made available, along with other accommodations which are part of the program, for reservation and use by participants in the program in accordance with program rules (collectively hereinafter referred to as "**Prohibited Programs**"). The Subject Property, and any portion thereof, shall not be advertised or used in conjunction with the marketing or sale of Short Term Rentals, including, but not limited to through any agency or web based service such as Airbnb, HomeAway, Trip Advisor, FlipKey, or the like, or of interest in any Prohibited Programs, or to provide accommodations for prospective purchasers of such interest, or otherwise. It is expressly intended for Dye Estates HOA to be a beneficiary of this restriction and to have the right to enforce these terms, including such terms incorporated in any third party agreements related to the Subject Property with any Owner of the Subject Property of any portion thereof, and such Owner shall provide to the Dye Estates HOA until the date on which a homeowners association is formed for

governance of the residents of the Blackwater Property or the Lot 106B Property, and following such formation, thereafter to the respective homeowners association for the Blackwater Property or the Lot 106B Property, if there is more than one such homeowners association, without the need for any request on the part of the Dye Estates HOA, a copy of any such agreement within Ten (10) business days of execution.

**Section 3.5 Additional Restrictions.** The following uses shall not be permitted on the Subject Property:

- (i) Any commercial use, including businesses of any kind;
- (ii) Any mobile home park, trailer, labor camp, junkyard or stockyard (except that this provision shall not prohibit the temporary use of construction trailers during periods of construction, reconstruction or maintenance;
- (iii) Any dumping, disposing, incineration or reduction of garbage (exclusive of garbage compactors located near the rear of any building);
- (iv) Any fire sale, bankruptcy sale (unless pursuant to a court order or as required by a security instrument involving any portion of the Subject Property) or any auction operation;
- (v) Any laundry, dry cleaning plant or laundromat;
- (vi) Any automobile, truck, trailer or recreational vehicle sales, leasing, display, body shop, repair shop or service garage;
- (vii) Any animal raising facilities, other than family pets raised within any private residence on any portion of the Subject Property;
- (viii) The sale or display of pornographic materials or drug related paraphernalia; and
- (ix) Any gambling facility or gambling operation.
- (x) Garbage cans or other refuse containers shall not be left outside, but shall instead be stored within a garage or other structure, and not visible from any street or roadway.
- (xi) Boats, trailers, and recreational vehicles of any kind must be stored within an enclosed garage or other structure and may not be stored outside.

**Section 3.6 Roadway Easement, Secondary Gate, Roadway Maintenance and Cost Sharing.** Coastal has, prior to the date of this Agreement, installed a secondary gate along Gray Heron Drive, prior to entering into the single family homes area of The Dye Estate (the "**Secondary Gate**"), which is subject to the jurisdiction of the Dye Estates HOA. The purpose of the secondary gate is to limit access to the single family homes section of The Dye Estates, and the ownership, maintenance and any warranties related to the Secondary Gate from Coastal to the Dye Estates HOA. Upon the removal of the Subject Property from the Dye Estates Declaration, the Subject Property will have access to Gray Heron Drive pursuant to the terms of the Roadway Agreement, the form of which is attached hereto as **Exhibit "D"**, and the Parties agree that the Roadway Agreement shall be executed by the Parties, and recorded in the public records of Horry County, South Carolina simultaneously with the recording of the Third Amendment.

#### **ARTICLE IV** **MAINTENANCE OBLIGATIONS**



**Section 4.1 Maintenance Standards.** Each Owner of any portion of the Subject Property shall maintain, in a good and First Class Condition, subject to any applicable Regulations, the curb cuts, driveways, entrances, exits and parking areas, landscaping (including any berms), fencing, lakes, ponds, buildings and other structures and other Improvements, and shall keep the same in a safe, clean and attractive condition, and shall cause to be maintained and repaired at its, or any association having jurisdiction over such Owner's expense all Improvements, which shall need repair in order to keep the same in a First Class Condition and repair, in compliance with all Regulations, which Regulations shall include, but not limited to zoning laws, building codes and other governmental regulations and in a condition substantially similar to the conditions that existing at the time such Improvements were initially completed. Such maintenance obligations shall include, but not be limited to, timely removal of litter, refuse, waste and debris; cleaning and keeping the driveways, entrances, exits and parking areas striped, marked, paved and repaired in the same manner and with the same degree of care as the driveways, entrances, exits and parking areas in similar quality residential developments in Barefoot Resort and the Dye Club country club facilities; keeping all directional signage, building signage and parking signage distinct and legible; repairing, replacing and renewing lighting, lawn mowing on a regular basis, tree and shrub pruning, watering landscaped areas (including berms) and keeping lawn and landscaped areas alive, free of weeds and dead or dying plants and attractive. Such maintenance standards shall, at all times be comparable to or in excess of the standards at which the Dye Estates HOA maintains Gray Heron Drive, its right-of-way, berms, landscaping, street lighting, guard gate, access gate, and any other element for which the Subject Property shall be assessed by the Dye Estates HOA, pursuant to the terms of the Master Declaration, the Dye Estates Declaration, this Declaration or the Roadway Agreement.

**4.1.1 Attached Homes HOA Responsibility.** Notwithstanding the above referenced standards, the parties agree that, on the date a homeowner's association is formed for governance of any attached single family residential improvements constructed on the Subject Property (the "**Attached Homes HOA**"), such Attached Homes HOA shall maintain and keep in good repair the common areas owned by the Attached Homes HOA. In addition the Attached Homes HOA will be professionally managed for a period beginning at its organization and continuing for not less than Five (5) years following the date of the sale of the last Attached Home. The Attached Homes HOA shall also maintain and keep in good repair the exterior of the attached single family residential improvements (each an "**Attached Home**"), including, but not limited to the landscaping around and in front of the Attached Homes, if any, and such maintenance shall be funded, as hereinafter provided, including any sidewalk which may be constructed on any common area owned by the Attached Homes HOA. The maintenance shall include the following:

- (a) periodic treatment of all exterior walls and foundations of the Attached Homes for termites; provided that the Attached Homes HOA shall not be liable if such treatment proves to be ineffective; and
- (b) maintaining all of the landscaping and other flora in the front yard and back yard of each Attached Home, and side yards of applicable Attached Homes, which maintenance shall include mowing lawns, pruning shrubbery, weed control removal and replacement of dead trees and shrubs and irrigation; and



- (c) maintenance, repair, and replacement as necessary, including pressure washing, any sidewalks and driveways, including paved portions of the Attached Homes adjacent to the garage of any Attached Home; and
- (d) maintenance, repair and replacement as necessary of any irrigation equipment, including, but not limited to sprinklers, wells, pumps, water lines and time clocks wherever located, serving the front yard and back yard of each Attached Home or side yard of any Attached Home, except the Attached Homes HOA shall have no responsibility for any of the aforementioned which is installed or altered by any owner or occupant of an Attached Home, or his or her agent, employee or contractor; and
- (e) maintenance, repair and replacement as necessary of perimeter landscaping or walls within the perimeter easement, if such walls or landscaping are initially installed by Declarant or the Attached Homes HOA; and
- (f) maintenance, repair and replacement as necessary of any and all structures and improvements situated upon the common areas owned by the Attached Homes HOA; and
- (g) at the end of its useful life, replacement of the roof and roof decking of Attached Homes, as may be determined necessary in the sole and exclusive discretion of the Attached Homes HOA, in a manner consistent with the then-current industry standards prevalent in Barefoot Resort and Golf PDD. Nothing contained herein shall create an obligation or responsibility of the Attached Homes HOA to repair, maintain or replace the roof or roof decking of Attached Homes other than the replacement at the end of its useful life as defined herein; and
- (h) at the end of its useful life, replacement of the exterior siding of Attached Homes as may be determined necessary in the sole and exclusive discretion of the Attached Homes HOA, in a manner consistent with the then-current industry standards prevalent in Barefoot Resort and Golf PDD. Nothing contained herein shall create an obligation or responsibility of the Attached Homes HOA to repair, maintain or replace the exterior siding of Attached Homes other than the replacement at the end of its useful life as defined herein.

All costs and expenses related to the Attached Homes HOA's maintenance responsibility hereunder shall be part of the general assessment of the Attached Homes HOA, provided, however, that any cost or expense incurred by the Attached Homes HOA as a result of the negligence or misconduct of any owner or occupant of any Attached Home, or his or her guest, agent, employee or contractor shall be assessed as a specific assessment against the Attached Home of such owner.

**4.1.2 Owner's Responsibility.** Notwithstanding the obligation of the Attached Homes HOA to perform certain maintenance obligations, each owner of an Attached Home shall nevertheless continue to be obligated to maintain his or her Attached Home and all structures, parking areas, backyards and other improvements comprising the Attached Home in a manner consistent with the standards of Barefoot Resort and Golf PDD and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Attached Homes HOA

pursuant to any declaration or supplement thereto which is applicable to the Attached Home(s). Each owner's maintenance responsibility shall include, but shall not be necessarily limited to the following:

- (a) maintenance, repair and replacement as necessary of all pipes, lines, wires, conduits, or other apparatus which serve only the Attached Home located wholly within the Attached Home Lot, including all utility lines serving the Attached Home; and
- (b) maintenance, repair and replacement as necessary of the exterior surfaces of the Attached Home, including window, and window frames, doors and door frames, including garage doors and any shutters, eaves, fascia, gutters and down spouts on the exterior of the Attached Home; and
- (c) maintenance, repair and replacement as necessary of the foundation and structure of the Attached Home; and
- (d) maintenance, repair and replacement as necessary, including pressure washing of driveways; and
- (e) maintenance, repair and replacement as necessary of the roof, including shingle and roof decking of the Attached Home; and

In addition to any other enforcement rights, if an owner fails to properly perform his or her maintenance responsibility, the Attached Homes HOA may perform such maintenance responsibilities and assess all costs incurred by the Attached Homes HOA against the Attached Home. The Attached Homes HOA shall afford the owner of such Attached Home a reasonable notice and opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation.

Notwithstanding anything to the contrary contained herein, the Attached Homes HOA and/or owner shall not be liable for property damage or personal injury occurring on, or arising out of the condition of property which it does not own unless and only to the extent that it has been grossly negligent in the performance of its maintenance responsibilities.

**Section 4.2 Blackwater Building and Other Structures Maintenance Standards.** Buildings and other structures constructed or installed on the Subject Property shall be painted, cleaned, pressure washed and all boards, brick, stone, windows, doors, glass, roofing materials, gutters, downspouts, patios, stoops, walkways, drives and other surfaces maintained in accordance with the Blackwater Plans, as to the Blackwater Property, including, but not limited to colors, materials, plant species and surfaces made a part of the Blackwater Plans, and the Lot 106B Property is subdivided as an expansion of the townhomes on the Blackwater Property, provided such Improvements shall be subject to the proposed expanded site plan attached hereto as **Exhibit "F"** (the "***Expanded Site Plan***"). To the extent the Lot 106B Property is developed in accordance with the Expanded Site Plan, and all of the Improvements thereon are constructed consistent with the Blackwater Plans, no further approvals for such Improvements shall be required from the Dye Estates HOA.



**Section 4.3 Future Lot 106B Improvements.** As to the Lot 106B Property, to the extent the same is not acquired by Declarant, and is not incorporated into Blackwater Property pursuant to the Expanded Site Plan, the Owner of the Lot 106B Property, or any portion thereof, shall submit to the Dye Estates HOA a development package for all Improvements proposed for the Lot 106B Property, including components, plans and specifications comparable to those set forth in the Blackwater Plans for approval by the Dye Estates HOA, such approval not to be unreasonably withheld or delayed.

**Section 4.4 Casualty Damage and Condemnation.** Each Owner shall be required to maintain property and casualty insurance for all Improvements constructed on their respective real property. Each such Owner shall provide to the Dye Estates HOA until the date on which a homeowners association is formed for governance of the residents of the Blackwater Property or the Lot 106B Property, a current certificate of insurance confirming the existence of such property and casualty insurance, together with the date of expiration for any such policy. If any building or other Improvement located on the Subject Property, or any portion thereof, is damaged or destroyed by fire or other casualty or it a taking by condemnation or otherwise by governmental authority damages any part of the Improvements and the proceeds of any such property and casualty insurance is insufficient to repair or replace such Improvements, or such claim is denied for any reason, then, following such casualty or condemnation, the Owner of the Subject Property, or any portion thereof, on which such Improvements may elect not to repair, restore or rebuild such building and/or Improvements, and such Owner shall promptly demolish the destroyed or damaged building or Improvement, clean up and all rubbish and debris, level the area, landscape and grade or pave the area and thereafter maintain such Owner's property in a good, clean, safe and presentable First Class Condition, in accordance with the terms of this Declaration and any Subject Property CCRs.

## **ARTICLE V** **ARBITRATION**

In the event of any controversy or claim arising out of or relating to this Declaration, or the breach, termination or validity thereof, the controversy shall be settled by binding arbitration which shall be conducted by an arbitrator agreed upon and selected by both parties from a list of arbitrators approved by the American Arbitration Association. The arbitration process shall be conducted in accordance with the American Arbitration Association's Rules of Procedure for Arbitration. The Parties specifically authorize the arbitrator to grant preliminary and permanent injunctive relief to enforce covenants contained herein. Judgment upon the award rendered by the arbitrator may be entered by any court having jurisdiction thereof. Each party shall bear its own expenses and attorneys' fees incurred in the arbitration, except that all expenses and fee incurred in any appeal shall be borne by the party not materially prevailing on such appeal. The place of arbitration shall be North Myrtle Beach, South Carolina.

## **ARTICLE VI** **MISCELLANEOUS**

**Section 6.1 Succession and Assignment.** This Declaration shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. The Declarant and Coastal may only assign their respective rights, interests or obligations hereunder

to a party or parties holding title to the Subject Property, or a portion thereof, including any homeowners association formed for purposes of governing the residents of the Subject Property, or any portion thereof. The Dye Estates HOA may not assign its rights, interests or obligations hereunder to any other party.

**Section 6.2 Governing Law.** This Declaration shall be construed and governed by the laws of the State of South Carolina, without giving effect to the conflict of laws provisions thereof.

**Section 6.3 Non-Waiver.** No waiver by any of the Parties, or failure by any of the Parties to demand that any other Party keeps, or performs any provision, covenant or condition of this Declaration shall be deemed to be a waiver of any preceding or succeeding breach of the same or of any other provision, covenant or condition. All rights and remedies herein granted or referred to are cumulative, resorting to one right or remedy shall not preclude resorting to another or any other right or remedy provided by law or equity in the State of South Carolina.

**Section 6.4 Entire Agreement/Modification/Amendment.** This Declaration, along with the exhibits attached hereto, constitute the entire agreement of the Parties hereto pertaining to this subject matter and supersedes all prior or contemporaneous agreements, undertakings and understandings or the Parties, specifically including the Dye Cabins Agreement and the Lot 105 and 106 Agreement, and this Declaration may be amended only in writing duly signed by the Parties to this Declaration, should Declarant and Coastal each maintain an ownership interest in any of the Subject Property. Notwithstanding the foregoing, the Parties recognize that this Declaration at all times is to be subject to applicable local, state and federal laws, rules and regulations and shall be subject to amendment in the event that such laws, rules or regulations are amended or enacted. Any provision of law that invalidates, or otherwise are inconsistent with the terms of this Declaration or that would cause one or both of the parties to be in violation of the law, shall be deemed to have superseded the terms of this Declaration, provided, however that the Parties shall exercise their best efforts to accommodate the terms and intent of this Declaration to the greatest extent possible consistent with the requirements of law.

**Section 6.5 Notices.** All notices which any party is required or may desire to give to any other Party under or in conjunction with this Declaration shall be in writing and shall be given by addressing the same to such other party at the address set forth below, and by depositing the same so addressed, certified mail, postage prepaid, return receipt requested, or by overnight mail, or by delivering the same personally to such other party.

If to Declarant:	D.R. Horton, Inc. P.O. Box 1545 Mount Pleasant, SC 29465 Attn: Division President
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If to Coastal:	Coastal Resort Holdings, LLC 4980 Barefoot Resort Bridge Road N. Myrtle Beach, SC 29582 Attn: Thomas A. Staats
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With a copy to: Otis Allen Jeffcoat, III, Esq.  
Jeffcoat Law, LLC  
P.O. Box 3678  
Myrtle Beach, SC 29578

If to Dye Estates HOA: The Dye Estates Homeowners Association, Inc.  
c/o Waccamaw Management, LLC  
605 Briarwood Drive, Suite C  
Myrtle Beach, SC 29572

With a copy to: Pearce Law Group, P.C.  
1314 Professional Drive  
Myrtle Beach, SC 29577  
Attn: L. Raymond Wells, Esq.

Any notice mailed shall be deemed to have been given three (3) United States Post Office delivery days following the date of mailing. Overnight mail shall be deemed to have been given on the next business day following the date of mailing. Any notice delivered in person shall be deemed effective immediately upon delivery. Any party may change the address for the service of notice upon it by written notice given to the other parties in the manner provided for the giving of notice.

**Section 6.6 Exhibits.** The exhibits attached hereto constitute a part of this Declaration and are incorporated herein by reference in their entirety, as if fully set forth in the Declaration at the point where first mentioned herein.

**Section 6.7 Headings.** The headings of this Declaration are inserted for convenience only and are not to be considered in the construction of the provisions hereof and shall not in any way limit the scope or modify the substance or context of any section or paragraph hereof.

**Section 6.8 Inclusive Words.** Unless the context requires otherwise, any terms of this Declaration which indicate the neuter or any gender shall be held to include the neuter and the other gender, as the case may be; and the words in singular shall be held and constructed to include the plural and vice versa.

**Section 6.9 Severability.** The provisions of this Declaration shall be severable. The unenforceability of any provision of this Declaration shall not affect the validity of the remaining provisions, unless either party should determine in its sole and complete discretion that such term or provision materially or adversely affects the benefit of its bargain under this Declaration in which case said party may terminate this Declaration without further liability to the other party hereto.

**Section 6.10 Execution in Multiple Counterparts.** This Declaration may be signed by each party upon a separate copy; in such case one counterpart of this Declaration shall consist of enough of such copies to reflect the signature of each of the Parties. This Declaration may be executed in two or more counterparts, each of which shall be deemed an original, and it shall not be necessary to produce or account of more than one such counterpart.

[Signature page for D.R. Horton, Inc.]

DECLARANT:

**D.R. HORTON, INC.,** a Delaware corporation

Raymond Wells  
Witness #1  
Name: Raymond Wells

By: Bradford C. Brundage  
Name: Bradford C. Brundage  
Title: Division President

Charlotte H. Pomeroy  
Witness #2  
Name: Charlotte H. Pomeroy

STATE OF SOUTH CAROLINA )  
COUNTY OF Horry )

ACKNOWLEDGEMENT

I, the undersigned Notary Public, do hereby certify that D.R. HORTON, INC. a Delaware corporation, by Bradford Brundage its President, personally appeared before me this day and acknowledged the due execution of the foregoing instrument as his or her act and deed and as the act and deed of the corporation.

WITNESS my hand and official stamp or seal this 13 day of July, 2018.

Barbara J. Miller  
Notary Public for South Carolina  
Name: Barbara J. Miller  
My Commission Expires: 9-17-25





Signature page for Coastal Resort Holdings, LLC

**IN WITNESS WHEREOF** the undersigned has executed this Agreement with the intent to be legally bound.

COASTAL:

**COASTAL RESORT HOLDINGS, LLC,**  
a South Carolina limited liability company

Witness:

P. Allen  
Thomas A. Starks  
Ron E. Hendrix

By:

Samuel W. Puglia  
Name: Member Manager  
Title:

STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY )

ACKNOWLEDGEMENT

Appeared before me, a Notary Public in the State of South Carolina  
Samuel W. Puglia as Member Manager of COASTAL RESORT HOLDINGS,  
LLC, as his or her act and deed and as the act and deed of the limited liability company. 7/13/18

Jane Simmerman  
Notary Public  
Name: Jane Simmerman  
My Commission Expires: April 23, 2028



[Signature page for The Dye Estates Homeowners Association, Inc.]

DYE ESTATES HOA:

**THE DYE ESTATES HOMEOWNERS ASSOCIATION, INC.**, a South Carolina non-profit corporation

[Signature]  
Witness #1  
Name: Raymond Wells

By: [Signature]  
Name: REBA SINISCALCHI  
Title: DYE ESTATES HOA PRES

[Signature]  
Witness #2  
Name: CHRISTINE H. PEACE

[Signature]  
Witness #1  
Name: Raymond Wells

By: [Signature]  
Name: Jean Laskowski  
Title: Dye Estates HOA Vice Pres

[Signature]  
Witness #2  
Name: CHRISTINE H. PEACE

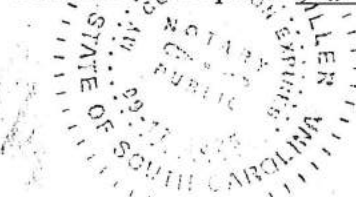
STATE OF SOUTH CAROLINA )  
COUNTY OF Horry )

ACKNOWLEDGEMENT

I, the undersigned Notary Public, do hereby certify that THE DYE ESTATES HOMEOWNERS ASSOCIATION, INC. a South Carolina non-profit corporation, by Reba Siniscalchi and Jean Laskowski as \_\_\_\_\_, personally appeared before me this day and acknowledged the due execution of the foregoing instrument as his or her act and deed and as the act and deed of the corporation.

WITNESS my hand and official stamp or seal this 13 day of July, 2018.

[Signature]  
Notary Public for South Carolina  
Name: Barbara J. Miller  
My Commission Expires: 9-17-25





## **EXHIBIT "A"**

### **Description of Blackwater Property**

**ALL AND SINGULAR**, that certain piece, parcel or tract of land, lying and being located in Little River Township, Horry County, South Carolina, and being more particularly described as **LOT 105** as shown on Map of Lots 105, 106 and Pump Station Site, "The Dye Estates" at Barefoot Resort, City of North Myrtle Beach, Horry County, South Carolina, dated April 1, 2003, last revised October 16, 2003, prepared by DDC Engineers, Inc., recorded November 16, 2004 in Plat Book 201 at Page 65, records of Horry County, S.C., said plat being incorporated herein and made a part hereof by reference.

### **AND**

**ALL AND SINGULAR**, that certain piece, parcel or tract of land, lying and being in the City of North Myrtle Beach, County of Horry, State of South Carolina, containing 2.55 Acres, more or less, shown and identified as **NEW LOT 106A** on Subdivision Plat of Lot 106 The Dye Estates at Barefoot Resort, dated July 10, 2017, prepared by Robert A. Warner and Associates, Inc., for Coastal Resort Holdings, LLC, recorded in the Office of the Register of Deeds for Horry County in Plat Book 276 at Page 112, said plat being incorporated herein and by reference.

**DERIVATION:** This being the same property conveyed to D. R. Horton, Inc. by Deed of Coastal Resort Holdings, LLC recorded August 7, 2017 in Deed Book 4032 at Page 806, in the public records of Horry County, South Carolina.

TMS/PIN No.: 143-18-01-001/358-16-01-0003

## **EXHIBIT "B"**

### **Description of Lot 106B Property**

**ALL AND SINGULAR**, that certain piece, parcel or tract of land, lying and being in the City of North Myrtle Beach, County of Horry, State of South Carolina, containing 3.35 Acres, more or less, shown and identified as **NEW LOT 106B** on Subdivision Plat of Lot 106 The Dye Estates at Barefoot Resort, dated July 10, 2017, prepared by Robert A. Warner and Associates, Inc., for Coastal Resort Holdings, LLC, recorded in the Office of the Register of Deeds for Horry County in Plat Book 276 at Page 112, said plat being incorporated herein and by reference.

**DERIVATION:** This being a portion of the property conveyed to Coastal Resort Holdings, LLC by Deed of NFPS, Inc., recorded November 16, 2004 in Deed Book 2822 at Page 554, in the public records of Horry County, South Carolina.

PIN No.: 358-16-01-0004

**EXHIBIT "C"**

Form of Third Amendment