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NEW HANOVER COUNTY,
MORGHAN GETTY COLLINS
REGISTER OF DEEDS

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PREPARED BY: Baker, PLLC
RETURN TO: 6841 Wrightsville Avenue, Suite 201
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STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS

1 6 0 0 S W O R D F I S H T O W N H O M E

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, made the 10th day of March, 2023 by **Beach, LLC** hereinafter referred to as "Declarant".

W I T N E S S E I H :

Whereas, Declarant is the owner of certain real property in New Hanover County, North Carolina, known as **"1600 Swordfish Townhome"** which is described in that deed recorded in the Office of the Register of Deeds of New Hanover County, North Carolina in Book 6508 at Page 572, and described on that plat recorded in Map Book 73 at Page 8 to which reference is made for a more particular description; and

Whereas Declarant desires to place certain Covenants and Restrictions upon the lands described above:

Now, THEREFORE, Declarant declares that the Property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the land and be binding on and shall inure to the benefit of all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns.

ARTICLE I.

DEFINITIONS

SECTION 1. Association shall mean and refer to 1600 Swordfish Townhome Owners Association, a North Carolina unincorporated non-profit corporation, its successors and

assigns, organized under Chapter 59B - Uniform Unincorporated Nonprofit Association Act, the owners association organized for the purposes set forth herein.

SECTION 2. Declarant shall be used interchangeably with 1600 Swordfish Townhome Joint Venture (which designations shall include singular, plural, masculine and neuter as required by the context).

SECTION 3. Declaration shall mean this instrument as it may be from time to time amended or supplemented.

SECTION 4. Lot(s) shall mean and refer to any subdivided lot within the confines of the land described above together with any dwelling situated thereon.

SECTION 5. Owner shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 6. Property shall mean the Property as defined in the preamble to this Declaration.

SECTION 7. Member(s) shall mean and refer to every person or entity who has a Membership in the Association.

SECTION 8. Membership shall mean and refer to the rights, privileges, benefits, duties, and obligations, which shall be inure to the benefit of and burden each Member of the Association.

SECTION 9. Home or Townhome shall mean the dwelling located on a Lot.

ARTICLE II.

PROPERTY RIGHTS AND EASEMENTS

SECTION 1. Owners' Property Rights and Easement of Enjoyment in the Common Area. Every Owner shall have and is hereby granted a right and easement of enjoyment in existing and any future Common Areas, if any, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following:

- (a) The Association may make and amend reasonable rules and regulations governing the use of any future Common Areas by the Owners, and limiting the number of guests of Members;
- (b) The Association may levy fines in accordance with the North Carolina Planned Community Act (Chapter 47F of the North Carolina General Statutes).

SECTION 2. Easements in Favor of Declarant and the Association. The following easements are reserved to Declarant and the Association, their successors and assigns:

- (a) Any as shown upon that map of the property recorded in Map Book 73 at Page 8 of the New Hanover County Registry.

SECTION 3. Other Easements. The following easements are granted by Declarant to others;

- (a) an easement is hereby granted to all police, fire protection, ambulance and all similar persons, companies or agencies performing emergency services, to enter upon all Lots in the performance of their duties;
- (b) in case of any emergency originating in or threatening any Lot or Common Areas, regardless of whether any Lot Owner is present at the time of such emergency, the Association or any other person authorized by it, shall have the right to enter any Lot for the purpose of remedying or abating the causes of such emergency and making any other necessary repairs not performed by the Lot Owners, and such right of entry shall be immediate;
- (c) the Association is granted an easement over each Lot for the purpose of providing Remedial Lot maintenance.

SECTION 4. Nature of Easements. All easements and rights described herein are perpetual easements appurtenant, running with the land, and shall inure to the benefit of the binding on the Declarant and the Association, their successors and assigns, and any Owner, purchaser, mortgagee and other person having an interest in the Property or any Additional Property, or any part or portion thereof, regardless of whether or not reference is made in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Declaration.

ARTICLE III.

AMENDMENTS

SECTION 1. Amendment of Declaration by the Declarant. This Declaration may be amended without member approval by the Declarant, or the Board of the Association, as the case may be, as follows:

- (a) in any respect, prior to the sale of the first Lot;
- (b) to the extent this Declaration applies to Additional Property;
- (c) to correct any obvious error or inconsistency in drafting, typing or reproduction;
- (d) to qualify the Association or the Property and Additional Property, or any portion thereof, for tax-exempt status;
- (e) to include any platting change as permitted herein;
- (f) to conform this Declaration to the requirements of any law or governmental agency having legal jurisdiction over the Property or any Additional Property or to qualify the Property or any Additional Property or any Lots and improvements thereon for mortgage or improvement loans made, insured or guaranteed by a governmental agency or to comply with the requirements of law or regulations of any corporation or agency belonging to, sponsored by, or under the substantial control of the United States Government of the State of North Carolina, regarding

purchase or sale of such lots and improvements, or mortgage interests therein, as well as any other law or regulation relating to the control of property, including, without limitation, ecological control, construction standards, aesthetics, and matters affecting the public health, safety and general welfare. A letter from an official of any such corporation or agency, including, without limitation, the Veterans Administration, U.S. Department of Housing and Urban Project, the Federal Home Loan Mortgage Corporation, Government National Mortgage Corporation, of the Federal National Mortgage Association, requesting or suggesting an amendment necessary to comply with the requirements of such corporation or agency shall be sufficient evidence of the approval of such corporation or agency, provided that the changes made substantially conform to such request or suggestion. Notwithstanding anything else herein to the contrary, only the Declarant, during the Developer Control Period, shall be entitled to amend this Declaration pursuant to this Section.

ARTICLE IV.

HOMEOWNER'S ASSOCIATION

SECTION 1. Formation of Association. The Association is an unincorporated nonprofit association organized pursuant to Chapter 59 - Uniform Unincorporated Nonprofit Association Act of the State of North Carolina for the purpose of establishing an association for the Owners of Lots to (i) own, operate and maintain the Common Areas, (ii) to maintain the Designated Common Area, (iii) to maintain the Limited Common Areas, and (iv) serve as a member of 1600 Swordfish Townhome, all in accordance with this Declaration, the Association's Charter and Bylaws.

SECTION 2. Membership. Every Lot Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from Lot ownership.

SECTION 3. Voting Rights. The Association shall have one class of voting Membership. Members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determined, but in no event shall more than one vote be cast with respect to any Lot. Fractional voting with respect to any Lot is hereby prohibited.

SECTION 4. Government Permits. All duties, obligations, rights and privileges of the Declarant under any water, sewer, storm water, and utility agreements, easements, and permits for the Project with municipal or governmental agencies or public or private utility companies are at all times the responsibility of the Association.

ARTICLE V.

INSURANCE AND BONDS

SECTION 1. Insurance. It shall be the duty of each Owner to maintain in effect casualty and liability insurance as follows:

- (a) Amount and Scope of Insurance. All insurance policies upon the Townhome shall be secured by the Owners and a copy of each policy shall be provided to the Board of Directors, or its designee on behalf of the Association which shall insure against (1) loss or damage by fire or other hazards normally insured against, (2) flood, and (3) such other risks, including public liability insurance, as from time to time shall be customarily required by private institutional mortgage investors for projects similar in construction, location and use as the Project and the improvements thereon for at least \$1,000,000.00 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under this policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries, and deaths of persons in connection with the operation;
- (b) Insurance Provisions. The Board of Directors shall make diligent efforts to insure that said insurance policies provide for the following:
- (1) a waiver of subrogation by the insurer as to any claims against the Association, any officer, director, agent or employee of the Association, the Lot Owners and their employees, agents, tenants and invitees;
 - (2) a waiver by the insurer of its right to repair and reconstruct instead of paying cash;
 - (3) coverage may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least thirty days prior written notice to all Owners and all mortgagees;
 - (4) coverage will not be prejudiced by act or neglect of the Lot Owners when said act or negligent is not within the control of the Association or by any failure of the Association to comply with any warrant or condition regarding any portion of the Project over which the Association has no control.
 - (5) a master policy on the Common Areas may be obtained by the Association and, if obtained, cannot be canceled, invalidated or suspended on account of the conduct of any one or more individual Lot Owners;
 - (6) if obtained the master policy on the Common Areas cannot be canceled, invalidated or suspended on account of the conduct of any officer or employee of the Board of Directors without prior demand in writing that the Board of Directors cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured.
- (c) Premiums. All premiums on individual insurance policies and any deductibles payable shall be an individual expense of the requisite Owners;
- (d) Proceeds. All insurance policies purchased pursuant to these provisions shall provide that all proceeds thereof shall be payable to the Owners;
- (e) Policies. All insurance policies purchased by the Owners shall be with a company or companies permitted to do business in the State of North Carolina. All insurance policies shall be written for the benefit of the Lot Owners and any mortgagees as

their respective interests may appear, and shall provide that all proceeds thereof shall be payable to the Owners and duplicates of said policies and endorsements and all renewals thereof, or certificates thereof, together with proof of payment of premium, shall be delivered to all Owners at least ten (10) days prior to the expiration date with respect to the then current policies. Duplicates shall also be obtained and issued by the Owners to each mortgagee, if any, upon request of such mortgagee;

- (f) Individual Policies. The insurance coverage for the individual lots and the structure(s) thereon shall be purchased as individual policies under such terms and conditions as the Association may prescribe by the individual lot owners. Each lot shall be insured for its full replacement value. The failure of an Owner to obtain and at all times maintain adequate insurance coverage shall empower the Association to obtain insurance on behalf of said Owner, without joinder of said Owner, the expense of which shall be borne by said delinquent Owner and shall be a lien upon the Lot of the Owner in violation;
- (g) Distribution of Insurance Proceeds. Proceeds of any insurance policy for the Common Areas shall be distributed to or for the benefit of the beneficial owners in the following manner: the proceeds shall be used to defray the cost of repairs for the damage or reconstruction for which the proceeds are paid. Any proceeds remaining after defraying such cost shall be distributed to the beneficial owners, including lienholders of record, or paid to the Association for such common expenses or purposes as the Board shall determine.

SECTION 2. Fidelity Bond. The association may maintain blanket fidelity bonds for all officers, directors, employees, and all other persons handling or responsible for funds of the Association, as follows (provided, however, that if the Association shall delegate some or all of the responsibility for the handling of its funds to a management agent, such fidelity bonds shall be maintained by such management agent for its officers, employees and agents handling or responsible for funds of or administered on behalf of the Association).

ARTICLE VI.

COVENANTS FOR ASSESSMENTS

SECTION 1. Creation of the Lien and Personal Obligation of Assessments. Each owner of any Lot, by acceptance of a deed for the Owner's Lot, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association the following assessments (collectively the "Assessments"):

The Assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the respective Lot against which the Assessments are made. Each such Assessment, together with interest costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

SECTION 2. Annual Assessments. The board of directors shall adopt a proposed annual budget at least 90 days before the beginning of each fiscal year. Within 30 days after adoption of the proposed budget for the Project, the Board of Directors shall provide all of the Lot Owners a summary of the budget and notice of a meeting to consider its ratification including a statement that the budget may be ratified without a quorum. The budget is ratified unless, at the meeting, a majority of all the Lot Owners in the Association rejects the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the Lot Owners shall be continued until such time as the Lot Owners ratify a subsequent budget proposed by the Board of Directors. The annual assessment for each Lot shall be established based on the annual budget thus adopted; provided, however, that the first Annual Assessment shall be set by the Declarant prior to the conveyance of the first Lot to an Owner. The due date for payment shall be established by the Board of Directors. The board of Directors shall have the authority to require the assessments to be paid in periodic installments.

The Association shall, upon demand, and for a reasonable charge furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

SECTION 3. Special Assessments for Capital Improvements. In addition to the Annual Assessments authorized above, the Association may levy, in any assessment year, a Special Assessment applicable to the year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon any future Common Areas. Including fixtures and personal property related thereto, provided that any such assessment shall have the assent of a majority of the members of each class who are voting in person or by proxy at a meeting duly called for this purpose.

SECTION 4. Insurance Assessments. All premiums on insurance policies purchased by the Board of Directors or its designee and any deductibles payable by the Association upon loss shall be a common expense, and the Association may in any assessment year levy against the Owners equally an "Insurance Assessment", in addition to the Annual Assessments, which shall be in an amount sufficient to pay the annual cost of all such deductibles and insurance premiums not included as a component of the Annual Assessment.

SECTION 5. Rate of Assessment. The Association may differentiate in the amount of Assessments charged when a reasonable basis for distinction exists, such as between vacant Lots of record with completed dwellings for which certificates of occupancy have been issued by the appropriate governmental authority, or when any other substantial difference as a ground of distinction exists between Lots. However, Assessments must be fixed at a uniform rate for all Lots similarly situated.

SECTION 6. Commencement of Assessments. Assessments for each Lot shall commence upon the date of acceptance by an Owner of a deed from Declarant.

SECTION 7. Effect of Nonpayment of Assessments and Remedies of the Association. Any assessment or installment thereof not paid within (30) days after the due date shall bear interest from the due date at the highest rate allowable by law. The association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Owner's Lot. No Owner may waive or otherwise escape liability of the

Assessments provided for herein by non-use of the Common Area or abandonment of his Lot. All unpaid installment payments of Assessments shall become immediately due and payable if an Owner fails to pay any installment within the time permitted. The Association may also establish and collect late fees for delinquent installments.

SECTION 8. Lien for Assessments. The Association may file a lien against a Lot when any Assessment levied against said Lot remains unpaid for a period of 30 days or longer.

- (a) The lien shall constitute a lien against the Lot when and after the claim of lien is filed of record in the office of the Clerk of Superior Court of the county in which the Lot is located. The Association may foreclose the claim of lien in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the General Statutes. Fees, charges, late charges, fines, interest, and other charges imposed pursuant to Sections 47-E-3-102, 47F-3-107A AND 47F-3-115 of the Act are enforceable as Assessments.
- (b) The lien under this section shall be prior to all liens and encumbrances on a Lot except (i) liens and encumbrances (specifically including, but not limited to, a mortgage or deed of trust on the Lot) recorded before the docking of the claim of lien in the office of Clerk of Superior Court, and (ii) liens for real estate taxes and other governmental assessments and charges against the Lot.
- (c) The lien for unpaid assessments is extinguished unless proceedings to enforce the tax lien are instituted within three years after the docketing of the claim of lien by the office of the Clerk of Superior Court.
- (d) Any judgment, decree, or order in any action brought under this section shall include costs and reasonable attorney's fees for the prevailing party.
- (e) Where the holder of a first mortgage or deed of trust of record, or other purchaser of a Lot obtains title to the Lot as a result of foreclosure of a first mortgage or first deed of trust, such purchaser and its heirs, successors and assigns shall not be liable for the Assessments against the Lot which became due prior to the acquisition of title to the Lot by such purchaser. The unpaid Assessments shall be deemed to be common Expenses collectible from all the Lot Owners including such purchaser, its heirs, successors and assigns.
- (f) A claim of lien shall set forth the name and address of the association, the name of the record Owner of the Lot at the time the claim of lien is filed, a description of the Lot, and the amount of the lien claimed.

ARTICLE VII.

USE RESTRICTIONS. ARCHITECTURAL CONTROL AND MAINTENANCE

SECTION 1. Approval of Plans for Building and Site Improvements. No dwelling, wall, fence or other structure shall be commenced, erected, or maintained upon any Lot. Nor shall any exterior addition to or change in or alteration therein (including painting or repainting of

exterior surfaces) be made until the plans and specifications (including site plan) showing the nature, kind, shape, height, materials, colors and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Declarant, or its designee, or, after the sale of all Lots by Declarant, by the Board of Directors of the Association, or by an Architectural Control Committee composed of three (3) or more representatives appointed by the Board.

SECTION 2. Minimum Standards for Site Improvements.

(a) Each dwelling shall have a minimum of 1000 square feet of enclosed, heated dwelling area. The term "enclosed, heated dwelling area" as used in the minimum requirements shall be the total enclosed area within a dwelling which is heated by a common heating system;

(b) All service utilities, fuel tanks, and wood piles are to be enclosed within a wall or plant screen of a type and size approved by the Declarant, the Board or the architectural control committee, so as to preclude the same from causing an unsightly view from any highway, street or way within the subdivision, or from any other residence within the subdivision. All mailboxes be uniform in design. Design for and location of mail boxes shall be furnished by Declarant Area; provided, however, that the design, placement, and materials of any fence are approved by the Declarant, the Board, or the Architectural Control Committee, as the case may be.

(c) All light bulbs or other lights installed in any fixture location on the exterior of any building for the purpose of illumination shall be clear, white or non-frost lights or bulbs. Exterior spot/flood lights must be approved by the Association. Any approved spot/flood lights shall be aimed to the greatest extent possible to direct light away from adjoining property.

SECTION 3. Use Restrictions.

(a) Land Use and Building Type. No Lot shall be used for any purpose except for residential purposed. All numbered Lots are restricted for construction of one single-family Town home dwelling.

(b) Nuisances. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. There shall not be maintained any plants or animals, nor device or thing of any sort whose normal activities or existence are in any way noxious, dangerous, unsightly, unpleasant or other nature as may diminish or destroy the enjoyment of other Lots by the Owner thereof. It shall be the responsibility of each Owner to prevent any unclean, unsightly or unkempt condition of buildings or grounds on the Owner's Lot which would tend to decrease the beauty of the neighborhood as a whole or the specific area.

(c) Temporary Structures. No structure of a temporary character, trailer, basement, tent, garage, barn, or other outbuilding shall be used on any Lot any time as a residence either temporarily or permanently without the written consent of the Association or its designee; provided, however, that this shall not prevent the Declarant, its designees or

assigns from maintaining a construction trailer or office on any part of the Project until the construction of dwellings on all Lots and improvements are completed.

(d) Vehicles/Boats. No camper, trailer, motor or mobile homes, tractor/trailer, or similar type vehicle, shall be permitted to remain on any Lot, or on any street at any time. No inoperable vehicle or vehicle without current registration and insurance will be permitted on any Lot or street. The Association shall have the right to have all such vehicles towed away at the owner's expense. No repairs to any vehicle may be made on the streets or in driveways, but only in garages or other areas not visible from the street.

(e) Animals. No animals, livestock, poultry of any kind shall be kept or maintained on any Lot or in any dwelling except that dogs, cats, or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes and provided further that they are not allowed to run free, are at all times kept properly leashed or under the control of their owner and do not become a nuisance to the neighborhood.

(f) Statuary, TV Satellite Dishes and Outside Antennas. No yard statuary, yard art, or TV satellite signal receiving dishes are permitted on any lot and no outside radio or television antennas shall be erected on any Lot or dwelling unit unless and until permission for the same has been granted by the Board of Directors of the Association or its architectural control committee; provided, however, satellite dishes not over eighteen (18) inches in diameter which cannot be seen from the street are permitted.

(g) Construction in Any Future Common Area. No person shall undertake, cause or allow alteration or construction in or upon any portion of future Common Areas except at the direction or with the express written consent of the Association or as permitted by this Declaration.

(h) Subdividing. Subject to any rights reserved to the Declarant herein, no Lot shall be subdivided, or its boundary lines changed except with the prior written consent of the Declarant during the period of Declarant control of the Association and thereafter by the Board of Directors of the Association.

(i) Trash Cans. All trash cans must be kept from view from the street except on trash pickup days. Trash cans must be removed from the street within 24 hours of trash pickup.

(j) Christmas Decorations. Christmas decorations may only be exhibited between November 20 and January 7 of the following year.

SECTION 4. Maintenance. To the extent the Association is not obligated to provide maintenance pursuant to this Declaration, each Lot Owner shall keep his Lot free from weeds, underbrush or refuse piles, or unsightly growth or objects. In the event the Owner fails to do so, then after thirty days notice from the Association, the Association or its designee may enter upon the Lot and remove the same at the expense of the Owner, and such entry shall not be deemed a trespass, and in such event a lien shall arise and be created in favor of the full amount of the cost thereof chargeable to the Owner's Lot, including collection costs and such amounts shall be due and payable within thirty (30) days after the Owner is billed therefor. Such lien shall be enforceable by Court proceedings as provided by law for

enforcement of liens. In the event that any maintenance activities are necessitated to any future Common areas by the willful act or active or passive negligence of any Owner, his family, guests, invitees or tenants and the cost of such maintenance, repair or other activity is not fully covered by insurance, then, at the sole discretion of the board of directors of the association, the cost of the same shall be the personal obligation of the owner and, if not paid to the association upon demand, may be added to the annual assessment levied against said Owner's Lot and shall become a lien against the Lot.

ARTICLE VIII.

PARTY WALLS

SECTION 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Townhomes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability for property damage due to negligence or willful acts of omissions shall apply thereto.

SECTION 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

SECTION 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, an 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

SECTION 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act caused the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such element.

SECTION 5. Right to Contribution Runs with Land. 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.

SECTION 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decisions shall be by a majority of all the arbitrators.

ARTICLE IX.

GENERAL PROVISIONS

SECTION 1. Enforcement of Storm Water Runoff Regulations. No Lot nor that portion of the street right of way between the edge of the pavement and the front Lot line, shall be

covered by impervious structures, including asphalt, gravel, concrete, brick, stone, slate or similar material (but excluding wood decking and the water surface of swimming pools), in excess of the square footages permitted by applicable governmental rules and regulations. Roadside or lot line swales may not be filled, piped or altered except as necessary to provide a minimum driveway crossing. These covenants are intended to insure continued compliance with the storm water permit for the property issued by the state of North Carolina and therefore may not be changed or deleted without the consent of the state. For curb and gutter projects, no one may pipe, fill in, or alter any Lot line swale used to meet North Carolina Storm water Management Permit requirements.

SECTION 2. Enforcement of Storm Water runoff regulations. No Lot nor that portion of the front Lot line, shall be covered by impervious structures, including asphalt, gravel, concrete, brick, stone, slate or similar material (but excluding wood decking and the water surface of swimming pools), in excess of the square footages permitted by applicable governmental rules and regulations. Roadside or lot line swales may not be filled, piped or altered except as necessary to provide a minimum driveway crossing. These covenants are intended to insure continued compliance with the storm water permit for the Property issued by the State of North Carolina and, therefore, may not be changed or deleted without the consent of the State. For curb and gutter project, no one may pipe, fill in, or alter any Lot line swale used to meet North Carolina Storm water Management Permit requirements.

SECTION 3. Rights of Institutional Note Holders. Any institutional holder of a first lien on a Lot will, upon request, be entitled to (a) inspect the books and records of the Association during normal business hours, (b) receive an annual audited financial statement of the Association within ninety (90) days following the end of its fiscal year, (c) receive written notice of all meetings of the Association and right to designate a representative to attend all such meetings, (d) receive written notice of any condemnation or casualty loss that affects either a material portion of the Project or the Property securing its loan, (e) receive written notice of any sixty-day (60) delinquency in the payment of assessments or changes owed by any Owner of any property which is security for the loan, (f) receive written notice of a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association, (g) receive written notice of any proposed action that requires the consent of a specified percentage of mortgage holders, and (h) be furnished with a copy of any master insurance policy.

SECTION 4. Utility Service. Declarant reserves the right to subject the Property to contracts for the installation of utilities, cable TV and street lighting, which may require an initial payment and/or a continuing monthly payment by the Owner of each Lot. Each Lot Owner will be required to pay for any water connections, sewer connections, impact fees or other utility service to the Lots. In the alternative, the Developer may collect such connection, impact and other fees, charges directly from the Lot Owners. All Lot Owners shall be required, for the household purposed, to use water and sewer supplied by the companies/ governmental units servicing the Project. Separate water systems for outside irrigation and other outdoor uses shall not be permitted without the consent of the Declarant or the Association.

SECTION 5. Severability. Invalidation of any one of these covenant or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

SECTION 6. Lots Subject to Declaration/Enforcement. All present and future Owners, tenants and occupants of Lots and their guests or invitees, shall be subject to, and shall comply with the provisions of the Declaration, and as the Declaration may be amended from time to time. The acceptance of a deed of conveyance or the entering into of a lease or the entering into occupancy of any Lot shall constitute an agreement that the provisions of the Declaration are accepted and ratified by such Owner, tenant or occupant. The covenants and restrictions of this declaration shall inure to the benefit of and be enforceable (by proceedings at law or in equity) by the Association, or the Owner of any Lot, their respective legal representatives, heirs, successors and assigns, and shall run with and bind the land and shall bind any person having any Lot, as though such provisions were made a part of each and every deed of conveyance or lease, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of (10) years, unless terminated by the Lot Owners. Failure by the association or by an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

SECTION 7. Liability of Declarant. The affirmative vote of no less than two-thirds (2/3) of all votes entitled to be cast by the Association Members shall be required in order for the Association to (1) file a complaint, on account of an act or omission of the Declarant, with any governmental agency which has regulatory or judicial authority over the Project or any part thereof; or (2) assert a claim or sue the Declarant.

SECTION 8. Amendment Of Declaration. Except as provided elsewhere herein, the covenants and restrictions of this Declaration may be amended only by an instrument duly recorded in the Office of the Register of Deeds of New Hanover County, executed by the duly authorized officers of the Association upon the vote of not less than two-thirds (2/3) of the Lot Owners; provided that no amendment shall alter any obligation to pay ad valorem taxes or assessments for public improvements, as herein provided, or affect any lien for the payment thereof established herein.

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed the day and year first above written.

BEACH, LLC *[Signature]*

~~1600 Swordfish, LLC~~

By: *[Signature]*
Member/Manager

New Hanover County, North Carolina

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Lance Popkin, member/manager.

Date: 3/10/2023

Stephanie Brown

Printed Name: Stephanie Brown, Notary Public

My commission expires: 12/05/2026

