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NEW HANOVER COUNTY,

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DECLARATION

OF

COVENANTS, CONDITIONS,

RESTRICTIONS AND EASEMENTS

FOR

PORTERS WALK

Prepared by and Return to:
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**DECLARATION
OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
PORTERS WALK**

This Declaration is made **July 7, 2020**, by **D.R. Horton, Inc.**, a Delaware corporation, 131 Racine Drive, Suite 201, Wilmington, NC 28403, hereinafter referred to as the “Declarant.” The Declarant states and declares as follows:

A. The Declarant is the owner of that tract of land located in New Hanover County, North Carolina, and described in **Exhibit A** attached hereto and incorporated herein (the “Property”);

B. The Declarant intends to subdivide the Property into residential lots, common areas and public rights-of-way, and to create from the Property and such additional land as may be subjected to this Declaration pursuant to Article X below a planned community to be known as Porters Walk (the “Community”); and

C. The Declarant desires to impose certain restrictive and protective covenants upon the Property to provide voting rights for Members in the Association and assessment allocations for Common Expenses to protect and to promote the beneficial ownership, use and enjoyment of all residential lots located within the Community.

THEREFORE, pursuant to Chapter 47F of the North Carolina General Statutes (the “Planned Community Act”), the Declarant hereby executes this Declaration to create Porters Walk, a North Carolina planned community, and declares that henceforth all portions of the Property shall be held and owned subject to the following terms, provisions, covenants, conditions, easements and restrictions, which shall run with the Property and which shall be binding upon all owners of any portion of the Property and their lessees, guests, mortgagees, heirs, executors, administrators, successors and assigns.

Article I
Application of the North Carolina Planned Community Act

The terms and provisions of Chapter 47F of the North Carolina General Statutes, as the same shall be amended from time to time, shall apply to the Community.

Article II
Definitions

The definitions set forth in N.C.G.S. § 47F-1-103 shall apply to this Declaration and are incorporated herein, except that the terms listed below shall have the specific meanings stated:

2.1. “Annexation Declaration” shall mean an instrument recorded at the New Hanover County Registry that subjects additional land to this Declaration.

2.2. "Architectural Guidelines" shall mean the architectural, design and construction guidelines and review procedures adopted pursuant to Article V below, as they may be amended.

2.3. "Articles of Incorporation" shall mean the Articles of Incorporations for Porters Walk Community Association, Inc., a North Carolina nonprofit corporation.

2.4. "Association" shall mean Porters Walk Community Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

2.5. "Base Assessment" shall mean the assessment levied on all Lots subject to assessment under Article IX below to fund Common Expenses, as determined in accordance with Article IX below.

2.6. "Board of Directors" or "Board" shall mean the executive board of the Association, as defined by the Planned Community Act and as created by the Bylaws.

2.7. "Bylaws" shall mean the bylaws of the Association as they now or hereafter exist and as they may be amended from time to time.

2.8. "Common Areas" shall mean all property, and any improvements thereon, wherever located, owned or leased by or dedicated to the Association or subjected to an easement or license in favor of the Association for the common use and enjoyment of Members. Common Areas shall include all water and sewer lines serving more than one Lot and located outside any public rights-of-way or utility easements. Common Areas shall include any Stormwater Control Facilities serving more than one Lot and not accepted by any governmental authority for maintenance. Common Areas shall include any streets or road rights-of-way serving more than one Lot and not accepted by any governmental authority for maintenance.

2.9. "Common Expenses" shall mean all costs of the Association in maintaining Common Areas, and meeting its responsibilities pursuant to Articles VI, VII and IX of this Declaration.

2.10. "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing in New Hanover County, North Carolina, or the minimum standards established pursuant to the Architectural Guidelines, Rule and Regulations, and Board resolutions, whichever is the higher standard. Declarant shall initially establish such standard, which may involve both objective and subjective elements. The Community-Wide Standard shall evolve as the Community evolves.

2.11. "Declarant" shall mean D.R. Horton, Inc., a Delaware corporation, or any successor or assign designated as Declarant in a Recorded Document executed by the immediately preceding Declarant.

2.12. "Declarant Control Period" shall mean the period of time during which Declarant holds a fee interest or contractual right in any portion, however small, of the land described in **Exhibit A** and/or **Exhibit B** attached hereto and incorporated herein.

2.13. "Declaration" shall mean this Declaration of Covenants, Conditions, Restrictions and Easements for Porters Walk, and any amendments hereto or restatements hereof.

2.14. "Governing Documents" shall mean, collectively, this Declaration, any applicable Supplemental Declaration, the Articles of Incorporation, the Bylaws, the Architectural Guidelines and the Rules and Regulations, as the same may be amended from time to time.

2.15. "Lot" shall mean any separate parcel of land within the Community designated for separate ownership or occupancy and residential use.

2.16. "Limited Common Areas" shall mean a portion of the Common Areas reserved for the exclusive use of one or more, but less than all, of the Lots.

2.17. "Master Plan" shall mean the master land-use plan for the development of the Community approved by New Hanover County, North Carolina.

2.18. "Member" shall mean and refer to every person or entity entitled to membership in the Association as provided in Article III below.

2.19. "Mortgage" shall mean a deed of trust recorded at the New Hanover County Registry that is a lien against any Lot. "Mortgagee" shall refer to a beneficiary or holder of a Mortgage. A "First Mortgage" shall be a Mortgage having priority over all other Mortgages encumbering a Lot. "First Mortgagee" shall refer to a beneficiary or holder of a First Mortgage.

2.20. "Neighborhood" shall mean any area or areas within the Community designated by a Supplemental Declaration to be a distinct or separate residential area within the Community, the residents of which will share or have in common expenses, interests, concerns, responsibilities, needs or uses not shared by or common to all residents within the Community.

2.21. "Neighborhood Assessments" shall mean assessments levied in accordance with Section 9.7 below.

2.22. "Neighborhood Expenses" shall mean the actual and estimated expenses which the Association incurs or expects to incur for the benefit of Owners within a particular Neighborhood or Neighborhoods, which may include reasonable reserves for capital repairs and replacements and reasonable administrative charges, as may be authorized pursuant to this Declaration or in the Supplementary Declaration(s) applicable to such Neighborhood(s).

2.23. "Occupant" means any person occupying all or any portion of a Lot or other property located within the Community for any period of time, regardless of whether such person is a tenant of the Owner of such property. "Occupants" shall refer to more than one Occupant.

2.24. "Owner" shall mean and refer to an owner of record of a fee simple interest in any Lot, including contract sellers, but excluding those having an interest only as security for the performance of an obligation. There may be more than one Owner of any single Lot.

2.25. "Recorded Document" shall mean any document, including any map or plat of survey, recorded at the Office of the Register of Deeds of New Hanover County, North Carolina.

2.26. “Rules & Regulations” shall mean the initial rules and regulations for use and occupancy of the Lots and the Common Areas set forth in **Exhibit C**, as they may be supplemented, modified, restated or superseded pursuant to Article IV below.

2.27. “Special Assessments” shall mean assessments levied in accordance with Article 9 below.

2.28. “Specific Assessments” shall mean assessments levied in accordance with Article 9 below.

2.29. “Stormwater Control Facilities” shall mean one or more of the following devices and measures, together with associated private drainage easements utilized for conveying stormwater (however identified on a plat, map or in a recorded document) that serve(s) the Property and which are located outside of public street rights-of-way and drainage easements accepted into public use by New Hanover County, including, but not limited to, bio-cells, conduits, inlets, channels, pipes, level spreaders, ditches, grassed swales, sand filters, wet ponds, dry detention basins, wetlands, permanently protected undisturbed open space areas (and similarly designated areas shown on any recorded plat of any portion of the Property), bio-retention areas, retention or detention ponds, runoff and pollutants for more than one (1) Lot in the Property. Private drainage easements, however identified on a recorded plat or recorded map or in a recorded document, that serve more than one (1) Lot are deemed to be dedicated to the Association for the benefit of the Property or applicable portions thereof.

2.30. “Supplemental Declaration” shall mean any declaration of covenants, conditions, easements and/or restrictions that Declarant may file at the New Hanover County Registry subsequently to filing this Declaration, which shall apply only to a particular area or areas within the Community. Such Supplemental Declaration may supplement, change, amend or supersede the terms and provisions of this Declaration as necessary to accommodate differences between the plan of the development for the subject property and the plan of the development for the rest of the Community.

Article III **Porters Walk Community Association, Inc.**

Every person or entity who is an owner of a fee or undivided fee simple interest in any of the Lots shall be a Member of the Association. Ownership of such interest shall be the sole qualification for membership, and membership shall be appurtenant to and shall not be separated from such ownership.

The Association shall be organized and governed as follows:

3.1. Purposes. The purposes of the Association shall be:

a. To maintain and preserve all Common Areas, and all roads, streets, decorative and protective structures (including but not limited to entry monuments and buffer walls), ponds, lakes, utilities, landscaped areas and other improvements located thereon, if any;

b. To enforce the provisions of the Governing Documents;

- c. To perform all duties and functions allotted to owner's associations pursuant to the Planned Community Act;
- d. To promote and to protect the enjoyment and beneficial use and ownership of the Lots; and
- e. To promulgate and enforce the Rules and Regulations and administrative rules and regulations for use of the Common Areas.

3.2. Powers and Responsibilities. The Association shall have all powers and responsibilities and shall perform all duties and functions allotted to owner's associations by Article 3 of the Planned Community Act, the terms and provisions of which are incorporated herein. The Association shall also have all rights and powers and shall perform all duties and functions that may be assigned to it by Declarant pursuant to this Declaration.

3.3 Voting Rights and Meetings. On matters of Association business submitted to vote of the membership, there shall be two classes of membership:

Class A. Every person who is an Owner, with the exception of the Declarant, shall be a Class A Member. Class A Members shall be entitled to one (1) vote per Lot. No more than one vote per Lot may be cast by Class A Members, regardless of the number of Owners of a given Lot.

Class B. The Declarant shall be the sole Class B Member. Class B membership shall be a full voting membership and, during its existence, the Class B Member shall be entitled to vote on all matters or issues before or considered by the Association. The Class B Member shall be entitled to three (3) votes for each Lot it owns, plus one (1) vote for each Lot owned by a person other than the Declarant. The Class B membership shall cease and shall be converted to Class A membership at such time as the first of the following events occur: (i) the date that all the Lots in the Community have been conveyed by the Declarant to other Owners; (ii) the surrender by the Declarant of the right to appoint or remove any officer of the Association or member of the Board by a Recorded Document executed by the Declarant; or (iii) the expiration of Declarant's rights to appoint or remove any officer of the Association or member of the Board pursuant to Article XI below.

Unless otherwise provided herein or in the Planned Community Act, all voting matters shall be decided by a simple majority vote. Requirements for a quorum shall be as provided by the Bylaws. The Members shall meet as provided by the Bylaws.

3.4 Bylaws. The initial Board shall enact and adopt all and any Bylaws that they deem necessary for the operation of the Association, which Bylaws shall be binding upon all Members, their Mortgagees, lessees, agents and invitees.

Article IV
Use and Occupancy of Lots and Common Areas

4.1. Fundamental Restriction on Use.

The Lots and Common Areas shall be used for residential and related purposes only, subject to and consistent with the Governing Documents, including the Rules and Regulations; provided that Declarant, the Association and/or builders approved by Declarant may maintain a business or management office within the Community, and provided that Declarant and/or any brokers or builders approved by Declarant may maintain information centers, model homes and sales offices within the Community. Notwithstanding the above, home business use ancillary to the primary residential use of a Lot is permitted, subject to the Rules and Regulations and all applicable laws and ordinances of governmental authorities.

4.2. Fundamental Restriction on Occupancy.

All Occupants of a single Lot shall be members of a single family. For purposes of this Declaration, a single family unit is defined as a group of individuals related by blood, marriage, adoption, or guardianship, or not more than three (3) persons not so related, living together as a single housekeeping unit. The number of Occupants on each Lot shall also be reasonably limited by the Lot's size and facilities and by a policy against disproportionate use of the Common Areas.

4.3. Additional Restrictions on Use and Occupancy of Lots.

Use and occupancy of all Lots shall be restricted as follows:

4.3.1 Completion of Construction. Once construction of any structure located within the Community is begun, it must be prosecuted diligently and must be completed within twelve (12) months of its commencement, unless otherwise approved in writing by Declarant.

4.3.2 Subdivision of Lots. No dwelling shall be erected on less than one Lot and no Lot shall be subdivided; however, owners of adjoining Lots may adjust a common boundary line, provided that the adjustment conforms in all respects with all applicable governmental regulations and ordinances, and with this Declaration.

4.3.3 Subdivision of Common Area. No Common Area shall be subdivided unless a revised Preliminary Plat and a revised Final Plat showing such subdivision have been submitted and approved by the governing municipality.

4.3.4 Signs. No signs, billboard or other advertising of any kind shall be displayed to public view on any Lot, right of way or Common Areas. This provision shall not apply to marketing, construction, advertising or informational signs placed on any Lot, right of way or Common Areas by Declarant. This provision shall not apply to professionally prepared signs placed on any Lot which are used to advertise a Lot for sale or rent, provided that no such sign shall be larger than 18" x 24". Although approval of the Association or the ARC is not required prior to the display of such signs, the Association may itself remove, have removed, or require the removal of any such sign which in its opinion would not otherwise be allowed under Article

5 of this Declaration or as amended or supplemented. A valid easement shall exist on any Lot for such removal by the Association or its agents.

4.3.5 Refuse Storage. No Lot shall be used or maintained as a dumping ground for rubbish of any character whatsoever, nor for the storage of any property or thing that will cause such Lot to appear in an unclean or untidy condition or that will be obnoxious to the eye, nor shall any substance, thing or material be kept upon any Lot that will emit foul or obnoxious odors, or that will cause any noise that might disturb the peace, quiet, comfort or serenity of the occupants of surrounding Lots. Trash, garbage or other waste shall not be burned or disposed of on any Lot and shall be kept in sanitary containers approved by the ARC. All equipment for the storage prior to disposal of such material shall be kept in a clean and sanitary condition. The placement of containers shall be approved by the ARC and, in any event, shall be kept in an enclosed area not subject to view from any person, from any direction.

4.3.6 Storage of Building Materials. No lumber, brick, stone, cinder block, concrete block, cement or other materials used for building purposes shall be stored upon any Lot longer than a reasonable time for the completion of the construction in which they are to be used.

4.3.7 Temporary Structures. No temporary structures such as sheds shall be erected or placed on a Lot without the written approval of the Declarant or the Association. Such structures, if permitted, may be used only during periods of construction, and never as a residence.

4.3.8 Parking and Vehicle Storage. Only licensed and operative vehicles, classified as passenger cars, station wagons, passenger pick-up trucks or passenger vans may be regularly parked in driveways. No vehicle will be permitted to park regularly on any roadway within the Community. Recreational vehicles must be screened from view. No vehicle located on a Lot may be used as a dwelling, even temporarily.

4.3.9 Offensive Activities Prohibited. No noxious or offensive activity shall be conducted upon any Lot or Common Areas, nor shall anything be conducted thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the neighborhood or to the Occupants of any Lot.

4.3.10 Underground Utilities. All utility lines serving structures located on Lots shall be placed underground.

4.3.11 Mobile Homes and Manufactured Housing. No mobile home, trailer or manufactured housing shall be located on any Lot.

4.3.12 Screening. Boats, boat trailers, campers, antennae, clotheslines, pet enclosures and the like shall not be located on a Lot so as to be visible from any roadway or any other Lot.

4.4 Rules and Regulations.

In addition to the restrictions stated above, which may be modified or rescinded only by an amendment to this Declaration, use and occupancy of the Lots and Common Areas shall be subject to the Rules and Regulations, which are intended to govern day-to-day use and

occupancy of the Lots and Common Areas. The initial Rules and Regulations are set forth in **Exhibit C** attached hereto and incorporated herein. In order to adapt and respond to changing or unforeseen circumstances affecting the Community, the Declarant, the Association and the Owners must have the ability to change the Rules and Regulations in an expedited and inexpensive manner. Accordingly, the Rules and Regulations may be amended, supplemented and/or rescinded and restated as set forth in this Section 4.4.

4.4.1. Declarant's Authority. During the Declarant Control Period, the Declarant shall have the unilateral right to amend, supplement and/or rescind and restate the Rules and Regulations, without prior notice to the Association or to other Owners; provided that no such action by Declarant may have a materially adverse effect on title to or marketability of any Lot.

4.4.2. Board Authority. The Board may amend, supplement and/or rescind and restate the Rules and Regulations. The Board shall send notice by mail or electronic notification to all Members concerning any such proposed action at least five (5) business days prior to the Board meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken. The Board's decision on such action shall be final, subject only to subsection 4.4.1 above.

4.4.3. Members' Authority. Members representing more than Fifty percent (50%) of the total votes in the Association, at an Association meeting duly called for such purpose, may amend, supplement and/or rescind and restate the Rules and Regulations.

4.4.4. Conflicts. Nothing in this Article shall authorize the Board to modify, repeal or expand the Architectural Guidelines or any provision of this Declaration. In the event of a conflict between the Architectural Guidelines and the Rules and Regulations, the Architectural Guidelines shall control. In the event of a conflict between this Declaration and the Rules and Regulations, this Declaration shall control.

4.5. Limitations. The right and ability of the Declarant and the Board to amend, supplement or restate the Rules and Regulations shall be limited as follows:

4.5.1. Displays. The rights of Owners to display religious and holiday signs, symbols and decorations inside structures on their Lots of the kinds normally displayed in single-family residential neighborhoods shall not be abridged, but no such display may violate the Community-Wide Standard or violate any other provision of this Declaration.

4.5.2. Activities Within Dwellings. No rule established pursuant to this Article shall interfere with the activities carried on within the confines of dwellings, except that the Association may restrict or prohibit any activities that create costs for the Association or other Owners, that create a danger to the health or safety of others, that generate excessive noise, traffic or use of parking facilities, that create unsightly conditions visible outside the dwelling or that otherwise violate the provisions of this Declaration or any applicable governmental law, ordinance or regulation.

4.5.3. Alienation. No rule promulgated pursuant to this Section shall prohibit leasing or transfer of any Lot or require consent of the Association or Board for leasing or transfer of any Lot; however, the Association may require a minimum lease term of six (6) months and otherwise regulate the leasing of Lots, excepting any Lots subject to a mortgage which is insured or guaranteed by the Federal Housing Administration or the Veterans Administration, or where the provisions of this Section 4.5.3 are otherwise prohibited by law.

4.5.3 Abridging Existing Rights. No rule shall require an Owner to dispose of personal property that was in or on a Lot prior to the adoption of such rule and which was in compliance with all rules previously in force. This limitation shall apply only for the duration of such Owner's ownership of the Lot personally, and this right shall not run with title to any Lot.

The limitations stated in this subsection shall not apply to amendments to this Declaration.

4.6 Common Areas Administrative Rules.

The Board may promulgate and enforce administrative rules and regulations governing use of the Common Areas without notice to the Members or any hearing. Examples of such administrative rules and regulations shall include, but not be limited to, setting hours of operation of a recreational facility or allocating or reserving use of a facility by particular individuals at particular times.

4.7 Notice to Purchasers and Mortgagees.

All prospective purchasers and mortgagees are given notice that use of the Lots and the Common Areas is restricted and governed by the Rules and Regulations, as they may be amended, expanded, and otherwise modified hereunder. Each Owner, by acceptance of a deed, acknowledges and agrees that the use, enjoyment and marketability of his or her Lot shall be affected by the Rules and Regulations which may change from time to time, and that the current Rules and Regulations may not be set forth in a Recorded Document. **Take notice that the Declarant or the Association may have changed the initial Rules and Regulations since the recording of this Declaration.** The Association shall provide a copy of the current Rules and Regulations to any prospective purchaser Member or Mortgagee upon written request and payment of the reasonable cost of such copy.

Article V **Architecture and Landscaping**

5.1. General.

No structure or thing, including but not limited to fences, shall be placed, erected, or installed upon any Lot and no improvements or other work (including staking, clearing, excavation, grading, and other site work, exterior alterations of existing improvements, or planting or removal of landscaping) shall take place on any Lot except pursuant to approval and in compliance with this Article and the Architectural Guidelines.

No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. Any Owner may remodel, paint, or redecorate the interior of a dwelling located on his or her Lot without approval; provided that modifications to the interior of a dwelling visible from outside the structure shall be subject to approval.

Any improvements constructed on a Lot shall be designed by and built in accordance with the plans and specifications of a licensed architect unless otherwise approved by Declarant or its designee in its sole discretion.

This Article shall not apply to Declarant's activities or to the Association's activities during the Declarant Control Period.

5.2 Architectural Review.

5.2.1. By Declarant. Each Owner, by accepting a deed or other instrument conveying any legal or equitable interest in a Lot, acknowledges that, as the developer and owner of real estate in the vicinity of and within the Community, Declarant has a substantial interest in the quality and appearance of improvements within the Community, and in determining that they enhance Declarant's reputation as a developer and do not impair Declarant's ability to market, sell, or lease its property. Therefore, no Owner shall commence any activity within the scope of this Article on his or her Lot unless and until Declarant or its designee has given its prior written approval for such activity, which approval may be granted or withheld in Declarant's or its designee's sole discretion.

In reviewing and acting upon any request for approval, Declarant or its designee shall act solely in Declarant's interest and shall owe no duty to any other person. Declarant's rights reserved under this Article shall continue or as long as Declarant owns any portion of the real property described in **Exhibit A** or **B** or has the right to expand the Community pursuant to Section 10.1, unless earlier terminated by Declarant by a Recorded Document.

Declarant may, in its sole discretion, designate one or more persons from time to time to act on its behalf in reviewing applications hereunder.

Declarant may from time to time, but shall not be obligated to, delegate all or a portion of its reserved rights under this Article to any other person or committee. Any such delegation shall be in writing, specifying the scope of responsibilities delegated, and shall be subject to (a) Declarant's right to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated, and (b) Declarant's right to veto any decision which Declarant determines, in its sole and exclusive discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Article, the jurisdiction of any other person or committee shall be limited to such matters as are specifically delegated to it by Declarant.

5.2.2. Architectural Review Committee. Upon delegation by Declarant or upon expiration of the Declarant Control Period, the Association, acting through an architectural