

**AMENDMENT TO MASTER DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS FOR
BRUNSWICK FOREST RESIDENTIAL PROPERTY**

Prepared by and return to:
Murchison, Taylor & Gibson, PLLC
1979 Eastwood Road, Suite 101
Wilmington, North Carolina 28403

NORTH CAROLINA

BRUNSWICK COUNTY

This AMENDMENT TO MASTER DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR BRUNSWICK FOREST RESIDENTIAL PROPERTY (the "Amendment") is made as of the 30th day of September 2024, by FUNSTON LAND & TIMBER, LLC, a North Carolina limited liability company with a mailing address of 1007 Evangeline Drive, Leland, NC 28451 (the "Declarant"). BRUNSWICK FOREST MASTER ASSOCIATION, INC., a North Carolina non-profit corporation with a mailing address of 1007 Evangeline Drive, Leland, NC 28451 (the "Master Association"), also joins in the execution of this Amendment for the purpose of consenting to the terms and conditions provided herein to the extent necessary or appropriate under the Declaration (as defined below). The date that this Amendment is recorded in the Brunswick County Registry shall be deemed its "Effective Date."

WITNESSETH:

WHEREAS, the Declarant heretofore executed that certain Master Declaration of Covenants, Conditions, and Restrictions for Brunswick Forest Residential Property and caused the same to be recorded in **Book 2359, Page 362** in the Brunswick County Registry (as heretofore or hereafter amended and supplemented, including but not limited to that Amendment recorded in **Book 3509, Page 1186** in the Brunswick County Registry, the "Declaration");

WHEREAS, capitalized terms used herein shall have the same meanings ascribed to such terms in the Declaration unless otherwise defined herein;

WHEREAS, the Declaration prohibits the use of golf carts anywhere in Brunswick Forest

394521

and its roads, other than the designated confines of the Cape Fear National golf course cart paths;

WHEREAS, the aforesaid prohibition on golf carts within Brunswick Forest and its roads has been enforced by the Declarant and the Master Association since the development began in 2006, based on the Declarant's primary goal of ensuring the safety of its residents on roads and streets that were designed only for use by traditional cars and trucks;

WHEREAS, the Declarant's intent and the community's long-standing understanding of the Declaration's prohibition on golf carts was and is for it to apply to all types of golf carts, as that term is used generally and broadly, which would include any type of golf cart that has been modified or designed to be "street legal" or a "Low-Speed Vehicle" ("LSV") as that term is defined herein;

WHEREAS, the Declaration authorizes the Declarant to amend the Declaration and subject Brunswick Forest to additional covenants, conditions, and restrictions; and it also provides that the Community-Wide Standard may evolve as development progresses within Brunswick Forest; therefore, the Declarant desires to enter into this Amendment in order to provide clarity and standards related to golf carts, LSVs and other vehicles;

NOW THEREFORE, in accordance with its rights in the Declaration, the Declarant (with the consent and joinder of the Master Association) hereby amends and supplements the Declaration as follows:

1. Section 2(v) of Exhibit C, Section 2 of the Declaration is deleted and replaced in its entirety by the following:

“(v) Motor Vehicles.

(i) Pathways and Trails. The use or operation of all Motor Vehicles (as that term is defined in N.C.G.S. § 20-4.01(23)) and all "Restricted Vehicles" (as that term is defined below) on pathways (including sidewalks) and trails in Brunswick Forest is prohibited.

(ii) Cape Fear National Golf Course. The use or operation of golf carts (as that term is commonly known and/or as it is defined below) is strictly limited to the confines of the designated parking lots and/or designated golf cart paths (if any) within the Cape Fear National Golf Course, and all such uses shall be subject to any further restrictions or rules as may be established by the owner or operator of such golf course.

(iii) Brunswick Forest Streets and Common Areas. Without limiting the foregoing, the use or operation of Restricted Vehicles (as defined below) is prohibited on all streets, roads and alleys within Brunswick Forest, regardless of whether such streets, roads and alleys are privately owned or have been dedicated to the Town of Leland or another governmental agency (collectively and whether existing as of the Effective Date or installed in the future, the "Brunswick Forest Streets"), and on all other Common Areas of Brunswick Forest. For purposes of this Declaration, "Restricted Vehicles" shall

mean any Motor Vehicle not classified as a passenger vehicle, light truck, or commercial vehicle designed for use on public roads, regardless of modifications, size or speed capabilities, and shall include (without limitation) all Golf Carts (including street-legal golf carts and other vehicles commonly known as golf carts but which may not fall under the definition of "Golf Cart" in N.C.G.S. § 20-4.01(12b)), and all LSVs, mopeds, all-terrain vehicles, gators, mules, mini-trucks, utility vehicles, tractors, riding lawn mowers, neighborhood electric vehicles or "NEVs" (or any other vehicle substantially similar in form or usage, including those with a non-electric fuel source), microcars, and/or any other Motor Vehicle whose predominant or primary usage is not for travel on public streets, roads, highways, or freeways (and any modified or similar versions of the same), it being understood that the Restricted Vehicles shall include any such vehicles which substantially meet the foregoing criteria whether in existence before, on, or after the Effective Date. For the purposes of this Section, the term "Low-Speed Vehicle" or "LSV" shall refer to a four-wheeled vehicle that is either electrically powered or propelled by a gasoline engine whose top speed is greater than 20 miles per hour but less than 25 miles per hour, as defined in N.C.G.S. § 20-4.01(27(g)), and a "Golf Cart" shall refer to a vehicle primarily designed for use on golf courses for sporting or recreational purposes which does not meet all of the safety or speed requirements for LSVs, as defined in N.C.G.S. § 20-4.01(12b). The definitions in this Declaration of "Restricted Vehicles" and "Brunswick Forest Streets" may be further amended by the Declarant as provided in Article 19 of the Declaration.

(iv) Limited LSV Variance. Notwithstanding anything to the contrary, the Board may adopt additional and/or clarifying rules related to motorized vehicles, and the Master Association may also grant a limited variance in its sole and absolute discretion to allow the use of a LSV on the Brunswick Forest Streets on a case-by-case basis and only for an Owner who already has a LSV registered in his/her name with the North Carolina Department of Motor Vehicles ("DMV") on or before the Effective Date. In order to request a variance, a qualified Owner must submit an application (and provide proof of the date of the LSV's DMV registration on or before the Effective Date) to the Master Association within fourteen (14) days of the Effective Date hereof. Any Owner that is granted a variance to operate his/her LSV must ensure full compliance with all applicable state and federal regulations, including but not limited to DMV registration, insurance and all safety standards under 49 C.F.R. § 571.500. A variance that is granted under this section will be non-transferable to any other Owner and it will not extend to another LSV that may be acquired or registered with DMV at a later date. Any variance request will be subject to the Master Association's variance procedures (as the same may be adopted and revised from time to time) which may include a reasonable review fee and a permitting process. No variance shall be granted for the use of a LSV that is acquired and/or registered with DMV after the Effective Date of this Amendment, or for any application that is submitted after the 14-day period described above. If the North Carolina Department of Transportation ("DOT") or any other governmental authority imposes additional restrictions on the use of LSVs or other motorized vehicles within Brunswick Forest, the most restrictive provision shall control. Notwithstanding anything herein, if the judgment rendered in the Brunswick County Superior Court case bearing the file number of 23 CVS 5432 is overturned, vacated, reversed, or the effect thereof is

otherwise rendered legally invalid in any way, the Board in its sole, absolute discretion may rescind or limit any variance given under this Section or any other document in connection with the Declaration allowing such use of LSVs.

(v) For the avoidance of doubt, it is acknowledged that the aforesaid restrictions have been in effect since 2006 and the Declarant's intent and the Brunswick Forest community's understanding has been that the Declaration's restriction on golf carts applies to all golf carts (as said term is used generally and broadly), as well as all Golf Carts (as that term is defined under North Carolina law), modified golf carts, street legal golf carts and LSVs, and it extends to all of the Brunswick Forest Streets (as defined above) and other Common Areas, regardless of whether the same are also subject to any less restrictive local ordinances or state laws. To the extent permissible, the Declarant and the Master Association retain all enforcement rights under the Governing Documents, even on Brunswick Forest Streets or other property that has been dedicated to the Town of Leland. These restrictions are and have always been intended to enhance safety within Brunswick Forest and ensure compliance with applicable vehicle standards on the Brunswick Forest Streets. Violations of these restrictions by Owners or their guests shall result in penalties including but not limited to monetary fines, the suspension of access to community amenities, and any other enforcement measures and penalties authorized by the Governing Documents.

(vi) The prohibitions outlined in this Section 2(v) do not apply to the use of any vehicles by the Declarant, the Master Association, or the owner or operator of the Cape Fear National Golf Course, or any of their designees, agents, employees, contractors, or assigns, when such vehicles are used in connection with the development, construction, maintenance, repairs, and/or operations related to Brunswick Forest or the property described in Exhibit "B" of the Declaration, or any Private Amenity including but not limited to the Cape Fear National Golf Course.

(vii) In the event that any or all of the provisions of this Section 2(v) are inconsistent with any or all of the provisions of the Governing Documents, then the provisions of Section 2(v) shall control."

2. Declarant (with the consent and joinder of the Master Association) hereby declares that the Property shall be held, sold, and conveyed subject to the Declaration, as amended and supplemented herein, which Declaration shall run with title to the Property and shall be binding on all parties having any right, title, or interest in the described Property or any part thereof, and shall inure to the benefit of each owner thereof.

EXCEPT AS AMENDED AND SUPPLEMENTED HEREIN, the Declaration shall be and remain in full force and effect.

- SIGNATURE PAGES FOLLOW -



DECLARANT:

FUNSTON LAND & TIMBER, LLC

By: [Signature]
Name: Allen Jefferson Earp
Title: Manager

STATE OF NORTH CAROLINA

COUNTY OF Brunswick
(County where acknowledgment taken)

I Meghan Owen, a Notary Public in and for New Hanover County, North Carolina, do hereby certify that Allen Jefferson Earp, Manager of FUNSTON LAND & TIMBER, LLC, a North Carolina limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of said limited liability company.

Witness my hand and official stamp or notarial seal, this 21st day of September, 2024.

[Signature]
Notary Public

My Commission Expires:
04/11/2028





The Master Association has executed this Amendment under seal as of the date first above written to acknowledge and consent to the terms contained herein.

BRUNSWICK FOREST MASTER ASSOCIATION, INC.

By: Rosemary Russell
Name: ROSEMARY RUSSELL
Title: President

STATE OF NORTH CAROLINA

COUNTY OF Brunswick
(County where acknowledgment taken)

I Meghan Owen, a Notary Public in and for New Hanover County, North Carolina, do hereby certify that Rosemary Russell, President of BRUNSWICK FOREST MASTER ASSOCIATION, INC., a North Carolina non-profit corporation, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of said non-profit corporation.

Witness my hand and official stamp or notarial seal, this 26th day of September, 2024.

Meghan Owen
Notary Public

My Commission Expires:
04/16/2028

