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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR GARDENWOOD AT BRUNSWICK FOREST

Prepared by: Murchison, Taylor & Gibson, PLLC, 16 North Fifth Avenue, Wilmington, NC 28401
STATE OF NORTH CAROLINA COUNTY OF BRUNSWICK

This **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR GARDENWOOD AT BRUNSWICK FOREST** (herein "Declaration"), is made and entered into on this the 16 day of August, 2007 by **Hearthside Builders, Inc.**, a North Carolina corporation with its principal offices in Brunswick County, North Carolina; (herein, "Declarant"), and by **Funston Land & Timber, LLC**, hereinafter referred to as "Master Declarant" or "Master Developer", for the purposes hereinafter stated.

WITNESSETH:

WHEREAS, Declarant is the Owner of certain real property in Brunswick County, North Carolina, known as **GARDENWOOD AT BRUNSWICK FOREST** (referred to herein as "Gardenwood") which consists or will consist of townhome dwellings, which real property is more particularly described by Exhibit A, attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, Declarant now owns or may acquire other lands which at Declarant's option and subject to the terms and conditions of the Master Declaration, may be added to Gardenwood; and

WHEREAS, Gardenwood is a "Neighborhood" within a larger planned community known as **BRUNSWICK FOREST**, and is subject to and bound by that Declaration of Covenants, Conditions, and Restrictions for Brunswick Forest Residential Property (the "Master Declaration"), recorded in Book 2359, Page 362, of the Brunswick County Registry, as the same may be amended from time to time; and



WHEREAS, Declarant desires to subject the Property to these protective covenants and form an association of Owners within Gardenwood at Brunswick Forest to provide for, among other things, the preservation of the property values and the desirability and attractiveness of the real property in Gardenwood, and to provide for the establishment and the continued maintenance of the landscaping of and lawns of the Lots owned by the Owners of the Property in Gardenwood.

WHEREAS, Funston Land & Timber, LLC (the "Master Declarant"), joins herein in order to evidence its consent that the Property be subject to and bound by the covenants and conditions contained herein.

NOW THEREFORE, Declarant declares that the Property described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions. These Protective Covenants shall be binding on and shall inure to the benefit of all parties having any right, title or interest in the Properties or any part thereof, their heirs, successors, and assigns.

ARTICLE I
Definitions

The definitions of terms as set out in the Master Declaration, except as specifically modified or changed by this Declaration, are adopted and incorporated herein by reference.

The following additional definitions shall apply for purposes of this Declaration:

"Association" or "Gardenwood Association" or shall mean and refer to "Gardenwood at Brunswick Forest Homeowners Association", a North Carolina non-profit corporation, its successors and assigns

"Board of Directors" or "Board" shall be used interchangeably and means the body responsible for administration of the Gardenwood Association.

"Common Expenses" shall mean any and all expenditures made by or financial liabilities of the Association, together with any allocations to reserves, pursuant to and in accordance with this Declaration, the Bylaws and N.C.G.S. § 47F-1-103(5)

"Gardenwood Landscape Guidelines" shall mean the guidelines and standards for design, landscaping, care and grooming of Lawn Maintenance and Landscape Elements, as said guidelines and standards may be amended from time to time. The initial Gardenwood Landscape Guidelines shall be prepared by the Declarant, who shall have the sole and full authority to amend the same during the Declarant Control Period (as said period is defined in Article IV). After the Declarant Control Period, the Association may amend the Gardenwood Landscape Guidelines if sixty-seven percent (67%) of the then Lot Owners agree. The Declarant shall make the Gardenwood Landscape Guidelines available to Owners but shall not be required to record the same.

"Lawn Maintenance and Landscape Elements" shall mean all real and personal property, including easements, which the Declarant or the Association may maintain within the Property from time to time. This term shall include the care and grooming of all vegetative elements existing on each Lot

beginning at the time said Lot is conveyed from a builder to a Member of the Gardenwood Association.

“Limited Common Area” shall mean all real and personal property which Funston Land & Timber, LLC, as Declarant under the Master Declaration, has designated or designates for the exclusive use or primary benefit of Owners and occupants within a particular Neighborhood or Neighborhoods in Brunswick Forest. Limited Common Areas may be designated in the Master Declaration; or may be shown and designated on any maps of Gardenwood or Brunswick Forest which are or may be recorded in the Brunswick County Registry; or may be designated in any Supplemental Declaration or amendment to the Master Declaration annexing additional properties.

“Lot” shall mean and refer to any numbered plot of land appearing on any Plat.

“Master Association” shall mean Brunswick Forest Master Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

“Master Governing Documents” shall mean the Master Declaration and any amendments of supplemental declarations thereto, the By-Laws and Articles of Incorporation of the Master Association, the Architectural Design Standards, the Restrictions and Rules, resolutions by the Master Association Board of Directors, and recorded plats of Brunswick Forest, as any one or more of which may be amended from time to time.

“Member” shall mean a person subject to membership in Gardenwood Association pursuant to Article IV.

“Owner” shall mean the record Owner, whether one or more persons or entities, of fee simple title to any Lot, but excluding those parties who have an interest in a Lot merely as security for the performance of an obligation.

“Unit” shall mean an attached or semi-attached residential townhouse constructed upon a Lot.

ARTICLE II
Master Declaration

Declarant hereby adopts by reference, as if fully set out herein, all provisions of the Master Declaration, and any supplements or amendments thereto presently existing or hereafter adopted.

ARTICLE III
Architectural Design Standards

In addition to the guidelines and restrictions contained in the Master Declaration and this Declaration, the Property shall be subject to any architectural design standards for Gardenwood at Brunswick Forest (the “Gardenwood Architectural Standards”) which may be adopted by the Architectural Review Committee (herein the “ARC”) of the Master Association in accordance with the provisions of the Master Declaration.

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ARTICLE IV
Homeowners' Association of Gardenwood at Brunswick Forest

Section 1. Membership and Voting Rights. Every Owner of a Lot which is subject to this Declaration shall be a member of Gardenwood at Brunswick Forest Homeowners' Association, (referred to herein as the "Gardenwood Association"). Membership shall be appurtenant to and may not be separated from Ownership of any Lot. Such membership is not intended to apply to those persons or entities holding an interest in any Lot merely as security for the performance of an obligation to pay money, e.g., mortgages or deeds of trust; however, if such secured party should realize upon his security and become the fee Owner of a tract, it and its assigns will be subject to all of the requirements and limitations imposed in these covenants on Owners of tracts within Gardenwood, including those provisions with respect to payment of Base Assessments.

Section 2. Membership Classes. The Association shall initially have two classes of voting membership (additional classes of membership may be added to the Association by Declarant in the event that additional property is annexed to Gardenwood).

A. Class "A". Class A Members shall be all Lot Owners except the Class "B" Member, if any.

B. Class "B". The sole Class "B" Member shall be the Declarant.

Section 3. Voting Rights. The voting rights of each class of membership shall be as follows:

A. The Class A Members shall be entitled to one vote for each Lot owned within Gardenwood. 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 determine, 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.

B. The Class B Member shall be entitled to three (3) votes for each Lot it owns that is platted and three (3) votes for each lot it owns that is planned but currently unplatted within Gardenwood. The Class B Membership shall cease and be converted to a Class A Membership when Declarant owns 10% or less of such Lots or upon Declarant's voluntary surrender of all Class B Membership.

The period during which there is Class B Membership is sometimes referred to herein as the "Declarant Control Period." During the Declarant Control Period, the Declarant shall have the right to designate and select the Board and the right to remove any person or persons designated and selected by the Declarant to serve on the Board, and to replace them for the remainder of the term of any person designated and selected by the Declarant to serve on the Board who may resign, die, or be removed by the Declarant.

Section 4. Voting Member. The Master Declaration provides that the Lot Owners shall elect a Voting and Alternate Voting Member to cast all votes attributable or allocated to the Lots within a Neighborhood of Master Declaration. The President of the Gardenwood Association shall ex officio



serve as the Voting Member and the Vice-President of the Gardenwood Association shall serve as the Alternate Voting Member.

Section 5. Rights of the Association. The Association may exercise any right or privilege given to it expressly by this Declaration, the By-Laws of the Association, or Chapter 55A of the North Carolina General Statutes, or reasonably implied from or reasonably necessary to effectuate any such right or privilege, including but not limited to the right to perform cosmetic maintenance such as mowing and planting of stormwater retention facilities, which facilities adjoin Lots but may not be located within the Property. Except as otherwise specifically provided in this Declaration, the By-Laws or the Articles of Incorporation of the Association, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

ARTICLE V
Limited Common Areas

Section 1. Owners' Easements of Enjoyment. Every Owner whose Lot has assigned to it a Limited Common Area shall have a right and easement of use, access, and enjoyment in and to the Limited Common Area, which rights shall be appurtenant to and shall pass with the respective title to every Unit, subject to the following provisions: a) The Gardenwood Protective Covenants, bylaws, and rules and regulations and the Master Documents; b) any restrictions or limitations in any deed or other instrument conveying any portion of the Limited Common Area to the Association; c) the right of the Board to adopt rules regulating the use and enjoyment of the Limited Common Area and improvements thereon, including rules restricting use of the Limited Common Area to Owners and occupants of Units and their guests, and rules limiting the number of guests who may use the Limited Common Area; and the right of the Board to establish penalties for any infractions thereof; d) the right of the Board to impose reasonable charges and fines for late payment of assessments; and after notice and a hearing, to suspend the voting rights and the right to use the Limited Common Area and any recreational facilities within the Limited Common Area by an Owner (i) for any period during which any assessment or charges against such Owner's Unit has remained unpaid for more than thirty (30) days, and (ii) for a period not to exceed sixty (60) days for a single violation of the Governing Documents (other than a failure to pay any assessment or charge or liens due), and (iii) for any period greater than thirty (30) days in the case of any continuing violation, of the Governing Documents; e) the right of the Association, acting through the Board, to dedicate or transfer all or part of the Limited Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Association; f) the right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval requirements set forth herein and the rights of such Mortgagees in said properties shall be subordinate to the rights of the Unit Owners hereunder; and g) easements as provided herein and in the Master Declaration.

ARTICLE VI
Maintenance, Repair and Replacement

Section 1. Responsibility of the Association. The Association will maintain, repair and replace all of the Limited Common Area, except the portions of any Limited Common Area which are required by this Declaration to be maintained, repaired or replaced by Owners to which the Limited Common

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Area are allocated and except for any maintenance or repairs caused by the negligence or intentional misconduct of any Owner, his agents, invitees or family members, which shall be the responsibility of that Owner. The actual and estimated expenses of maintaining, operating, repairing, and replacing the Limited Common Area, including insurance, reasonable reserves, and utilities, as the Board may find necessary and appropriate pursuant to the Declaration, for the benefit of the Limited Common Area shall be assessed at a uniform rate to all Units.

In addition to maintenance upon the Limited Common Area, the Association shall provide exterior maintenance upon each Unit which is subject to assessment hereunder as follows: paint, repair, replace and care of roofs, gutters, downspouts, exterior building surfaces, brick walls and other exterior improvements. Such exterior maintenance shall not include glass surfaces, exterior doors, and window frames (i.e. entire window unit) unless approved by the Board, except the Association shall be responsible for painting exterior doors.

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, guests, invitees, or licensees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Unit is subject.

Section 2. Responsibility of the Owner. Except for the maintenance required of the Association under Section VI(1) and Article VIII, each Owner will be responsible for all other required maintenance of the exterior and interior of his or her Lot and Unit, including the fixtures and utilities located in the Unit to the extent current repair shall be necessary in order to avoid damaging other Persons, Units, the Common Area, or the Limited Common Areas. All fixtures, equipment, and utilities installed and included in a Unit commencing at a point where the fixtures, equipment, and utilities enter the Unit shall be maintained and kept in repair by the Owner. The Owner at the Owner's expense shall maintain, repair or replace the heating and air conditioning units (HVAC), air handling units, heat exchanger, heat outlet, enclosures and mechanical attachments. The Owner shall not allow any action of work that will impair the structural soundness of the improvements, impair the proper functioning of the utilities, heating, ventilation, or plumbing systems or integrity of any townhome building, or impair any easement or hereditament. An Owner is responsible for a repair resulting from a casualty occurring within, or affecting the inside of the Unit. Each Owner shall be responsible for removing all snow, leaves and debris from all doorsteps or stoops appurtenant to his Unit.

If an Owner of any Lot fails to maintain that Lot and the improvements thereon in accordance with this Article in a manner reasonably satisfactory to the Board, in its sole discretion, the Board shall give written notice to such Owner and, if the necessary maintenance is not completed within twenty (20) days, the Association shall have the right, through its agents, contractors, and employees to enter upon the Lot of the defaulting Owner and to repair, maintain and restore the Lot and the exterior of the building and other improvements erected thereon in a reasonable and good and workmanlike manner. The cost of such repair, maintenance or restoration shall immediately be deemed a special assessment levied by the Association against such Owner and such Owner's Lot, shall become the personal obligation of such Owner and shall become a lien against such Lot enforceable in accordance with Article VII. In the event of an emergency (as so deemed by the Board in its reasonable discretion), the Association shall have the right, with or without prior notice to the Owner, to enter any Lot and Unit to make emergency repairs necessary for the proper

maintenance and operation of the Property.

ARTICLE VII
Covenants for Assessments

Section 1. Creation of Lien and Personal Obligation of Assessments Each Lot Owner covenants and agrees to pay to the Gardenwood Association the following assessments, as applicable (collectively the "Assessments"): 1) Base Assessments; 2) Special Assessments; 3) Insurance Assessments; 4) Working Capital Assessments; and 5) Transfer Fees.

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.

Assessments levied by the Association shall be used for Lawn Maintenance and Landscape Elements on Lots; maintenance of any Limited Common Area including but not limited to mailbox kiosks and any entrance features serving the Property and any buffer or sign easements shown on the recorded plats of the Property and any improvements located thereon; improvements and maintenance of the Limited Common Areas; payment of utilities; enforcing this Declaration; paying taxes, insurance premiums, legal and accounting fees, governmental charges; establishing working capital; paying dues and assessments to any organization of which the Gardenwood Association is a member and to the Master Association; and doing any other things necessary or desirable in the opinion of the Gardenwood Association to maintain the Property to Community-Wide standards; and for such other expenditures as approved by the Board to promote the recreation, health, safety, and welfare of the Owners and residents of the Property.

Section 2. Base Assessments. At least ninety (90) days before the beginning of each fiscal year, the Board shall adopt a proposed annual budget, as follows:

- A. Budget for the Base Assessments for Lots within Gardenwood consisting of the annual cost of operations and maintenance of the Lawn Maintenance and Landscaping Elements; improvements and maintenance of any Common or Limited Common Area including but not limited to mailbox kiosks and any entrance features serving the Property and any buffer or sign easements shown on the recorded plats of the Property and any improvements located thereon; payment of utilities; enforcing this Declaration; paying taxes, insurance premiums, legal and accounting fees; governmental charges; and establishing working capital;
- B. Budget for the payment of dues and assessments to the Master Association; and
- C. Such other budgets as the Board deems appropriate.



Within thirty (30) days after adoption of the proposed budgets for Gardenwood, the Board shall provide to all Lot Owners a summary of the budget and notice of a meeting to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. Each budget is ratified unless at the meeting a majority of all of the Lot Owners in the Association entitled to vote on the particular budget rejects the budget. All Members shall be entitled to vote on the budget for the Base Assessments. In the event a 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. The Base Assessments for each Lot shall be established based on the annual budget thus adopted, with all Lots funding the budget for the lawn maintenance and landscaping; provided, however, that the first Base Assessments 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. The Board 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. The annual budgets shall include in each calendar year the amount budgeted by the Master Association for Base Assessments and Neighborhood Assessments, if any (as said assessments are defined and authorized in the Master Declaration) to be paid by all Lot Owners in Gardenwood. The Association shall collect as part of its Base Assessments the amounts budgeted for such Base Assessments and Neighborhood Assessments, if any, and pay the Base Assessments and Neighborhood Assessments to the Master Association on behalf of the Lot Owners.

Section 3. Special Assessments. In addition to the Base Assessments authorized above, the Association may levy, in any assessment year, a Special Assessment applicable to that year only to defray, in whole or in part, (a) the cost of any construction, reconstruction, repair or replacement of Lawn Maintenance and Landscaping Elements or Limited Common Elements; (b) the costs of paying special governmental assessments; or (c) any other costs or expense, provided that any such Special Assessment shall have the assent of one-half (1/2) of the affected Members who are voting in person or by proxy at a meeting duly called for this purpose. Written notice of any meeting of Owners called for the purpose of approving such Special Assessment shall be sent to all Members not less than ten (10) days nor more than sixty (60) days in advance of the meeting.

Section 4. Insurance Assessments. All premiums on insurance policies purchased by the Board or its designee and any deductibles payable by the Association upon loss shall be a Common Expense, and the Association may at any time levy against the Owners equally an "Insurance Assessment", in addition to the Base Assessments, which shall be in an amount sufficient to pay the cost of all such deductibles and insurance premiums not included as a component of the Base Assessment.

Section 5. Working Capital Assessments. At the time title to a Lot is conveyed to an Owner by Declarant, the Owner shall pay the sum of \$500.00 to the Association as working capital to be used for operating and capital expenses of the Association (\$250 of which will be used to reimburse the Master Association for its installation of the mailbox kiosks serving Gardenwood) **(this Working Capital Assessment is in addition to any similar assessment imposed by the Master Declaration and due to the Master Association).** Such amounts paid for working capital are not to be considered as advance payment of the Base or any other Assessments. The Board may change the amount of the Working Capital Assessment from time to time. The Declarant may waive the

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Working Capital Assessment for any vendee who is a general contractor intending to build a residence on a Lot to be conveyed by the general contractor to others so long as the general contractor agrees with the Declarant and the Association to charge the Working Capital Assessment to the general contractor's vendee and to pay the same to the Association at the time the general contractor conveys said Lot and residence.

Section 7. Transfer Fee. At the time title to a Lot is conveyed by an Owner, the purchaser shall pay to the Association the sum of \$250.00 **(which Transfer Fee is in addition to any similar transfer fees which may be required to be paid to the Master Association pursuant to the Master Declaration)**. Such amounts are not to be considered as advance payment of the Base or any other Assessments. The Transfer Fee shall be due at the closing of the conveyance of the Lot and if not so paid, the Association shall have a lien against the conveyed Lot as provided in this Article for other Assessments. The Board may change the amount of the Transfer Fee from time to time. A Transfer Fee shall not be due upon conveyances by Declarant to a builder who buys the Lot for construction of a residence for resale; transfer of title by reason of an Owner's death, pursuant to a security instrument or by virtue of foreclosure; conveyances to an Owner's spouse or other co-Owner without consideration; or conveyances to an entity owned entirely by the Owner transferring title, but the Transfer fee shall become due if such Owner later transfers any part of his Ownership in the entity to another Person.

Section 8. Rate of Assessment. The Association may differentiate in the amount of Gardenwood Assessments charged when a reasonable basis for distinction exists, such as between vacant Lots of record and 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. The Master Association will not differentiate in the amount of Brunswick Forest Assessments charged.

Section 9. Commencement of Assessments. Assessments for each Lot shall commence upon the date of acceptance by an Owner of a deed from Declarant. Declarant shall not be obligated to pay Assessments (but Declarant at its option subsidizes the Association, if necessary, until the Association has sufficient revenues).

Section 10. Effect of Nonpayment of Assessments and Remedies of the Association. Any Assessment or installment thereof not paid within thirty (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 for the Assessments provided for herein by abandonment of his Lot. All unpaid installment payments of the 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 11. 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 thirty (30) days or longer.

A. The lien shall constitute a lien against the Lot when and after the claim of lien is filed

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of record in the office of the Clerk of Superior Court of the county in which said 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 47F-3-102, 47F-3-107, 47F-3-107.1, 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 (1) liens and encumbrances (specifically including, but not limited to, a mortgage or deed of trust on the Lot) recorded before the docketing of the claim of lien in the office of the Clerk of the Superior Court, and (2) 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 lien are instituted within three years after the docketing of the claim of lien in 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 attorneys' 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 of 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 VIII

Lawn Maintenance, Entrance Features, Mailbox Kiosks and Lot Buffers/Berms

A. Lawn maintenance, as more particularly described in the Gardenwood Landscape Guidelines, will be provided by the Association for all Lots unless Declarant, by a supplemental declaration, excludes any such Lots from yard maintenance. The cost of lawn maintenance for each Lot will be assessed by the Association to the Owners and included in the Gardenwood Base Assessment annual budget.

B. Entrance features serving Gardenwood will be installed by Funston Land & Timber, LLC, as Declarant under the Master Declaration. The Gardenwood Association will maintain all entrance features serving Gardenwood. The cost of maintenance of Gardenwood's entrance features will be assessed by the Association to the Owners and included in the Gardenwood Base Assessment annual budget.

C. Mailbox kiosks serving Gardenwood will be purchased and installed by the Master



Association. At the time title to a Lot is conveyed to an Owner by Declarant, each Owner will be required to pay, among other things described in Article VII, a Working Capital Fee to the Gardenwood Association (\$250 of which will be used to reimburse the Master Association for its purchase and installation of the mailbox kiosks serving Gardenwood). The Declarant may designate, by Supplemental Declaration, the mailbox kiosks as Limited Common Area. The Gardenwood Association will maintain all mailbox kiosks serving Gardenwood. The cost of maintenance of Gardenwood's mailbox kiosks will be assessed by the Association to the Owners and included in the Gardenwood Base Assessment annual budget.

D. The thirty (30) foot buffer easement shown on the recorded plats of the Property and any improvements or landscaping located thereon shall be maintained by the Gardenwood Association in a manner consistent with the Community-Wide Standard. The cost of maintenance of said buffer easement will be assessed by the Gardenwood Association equally to all of the Owners and included in the Gardenwood Base Assessment annual budget.

ARTICLE IX
Easements

A. The Declarant reserves for itself, its successors, assigns, and the Association easements over the Property as necessary to enable the Association to fulfill its maintenance responsibilities under Articles VI and VIII.

B. The Declarant reserves for itself, its successors, assigns, and the Association, a four (4) foot non-municipal easement for utilities and drainage along and inside the side lines of all Lots for the purpose of installing, inspecting, repairing any drain ways, swales, ditches or gutters for surface water. No structures or plantings or other materials shall be placed or permitted to remain upon such easement areas which may damage or interfere with the installation or maintenance of utilities or other services, or which may retard, obstruct or reverse the flow of water or which may damage or interfere with the established slope ratios or create erosion problems.

C. Each Lot and the Limited Common Areas shall be and are subject to an easement for encroachments created by construction, settling and overhangs, as originally designed or constructed, so long as such encroachments exist. Every portion of a Lot and each Unit constructed thereon and contributing to the support of any abutting Unit shall be burdened with an easement of support for the benefit of such abutting Unit. If adjoining Units are partially or totally destroyed, and then rebuilt, the Owners of the Lots so affected agree that minor encroachments from the adjacent Lots or Limited Common Areas resulting from construction shall be permitted and that a valid easement for such encroachments exist.

D. The Declarant reserves for itself, its successors, assigns, the Master Association and the Gardenwood Association, a thirty (30) foot buffer easement as shown on the recorded plats of the Property easement in order to maintain such areas in a manner consistent with the Community-Wide Standard and as may be required by the Town of Leland. Declarant, the Master Association, the Gardenwood Association and their successors, assigns and designees shall have a ten (10) foot perpetual, nonexclusive right and easement along and inside the side lines of any Lot (but not through a structure) which abuts or adjoins the thirty (30) foot buffer easement to the extent reasonably necessary

to exercise their rights under this Section.

E. The Declarant reserves for itself, its successors, assigns, the Master Association and the Gardenwood Association, sign easements as shown on the recorded plats of the Property easement for the following purposes: 1) the location, installation, construction, maintenance, inspection, repair, operation, replacement and/or removal of entrance or monument sign(s), fence(s), wall(s), fountains and/or other entranceway features for Gardenwood at Brunswick Forest subdivision; 2) passage and access for the purpose described herein; and 3) the removal of structures, fences, trees, shrubs and vegetation within the easement area which interfere with the permitted uses described herein.

F. The Declarant and the Association shall also have the right, but not the obligation, to enter upon any Lot for emergency, security, and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforce these Protective Covenants. The Board and its duly authorized agents and assignees and all emergency personnel in the performance of their duties may exercise such right. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

G. All easements and rights described herein are perpetual easements appurtenant, running with the land, and shall inure to the benefit of and be 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 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 X
Insurance and Reconstruction

Section 1. Insurance Obtained by the Association. The Board, on behalf of the Association, shall obtain and maintain adequate and appropriate insurance in accordance with the following provisions:

A. Property Insurance. The Association shall obtain and maintain at all times a policy or policies of property insurance (ISO special form or its equivalent) covering all buildings and improvements located on the Property, including all Units and all insurable improvements located in the Limited Common Areas, in an amount not less than one hundred percent (100%) of the replacement cost of the such improvements, in accordance with the plans and specifications for the original development of the Property, at the time such insurance is purchased and at the time of each renewal thereof, exclusive of the costs of excavation, paving, foundations and footings, with a commercially reasonable deductible not in excess of \$10,000.00. Each policy shall show the Association as the named insured, but shall provide that each Owner is an insured person with respect to his Unit, and that the Association is an insured person with respect to the Limited Common Areas; shall contain clauses providing for waiver of subrogation against any Owner and any Owner's employees or agents; shall provide that it may not be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association and all insureds, including all Owners and all Mortgagees; shall provide that no act or omission by any Owner will preclude recovery upon such policy; and shall provide that if, at the time of a loss under the policy, there is no



other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance. Each policy shall contain an inflation guard endorsement and a construction code endorsement if available. Each policy shall provide that adjustment of loss shall be made by the Association as insurance trustee, and shall provide for the issuance of certificates of mortgagee endorsements to all Mortgagees.

B. Liability Insurance. The Association shall obtain and maintain a policy of commercial general liability insurance in such limits as the Association may, from time to time, determine, covering each member of the Board, the property manager, if any, and each Owner with respect to liability arising out of the use, ownership, maintenance or repair of the Limited Common Areas; provided, however, that in no event shall the limits of such policy ever be less than \$1,000,000.00 per occurrence. The liability insurance policy shall include endorsements covering cross liability claims of one insured against another, including the liability of the Owners as a group to a single Owner, and shall provide that it may not be cancelled or substantially modified without at least thirty (30) days' prior written notice to the Association and to all insureds, including all Owners and all Mortgagees. The Association shall review such limits annually.

C. Other Insurance. The Board, or its duly authorized agent, shall have the authority to and shall obtain and maintain in effect such other insurance coverages as may be required by any Agency and such other insurance coverages as the Board shall determine from time to time to be desirable, specifically including without limitation, directors and officers liability insurance, fidelity insurance, performance bonds, payment on labor and material bonds, and maintenance bonds.

Section 2. Premiums. Premiums upon insurance policies purchased by the Association, and any amounts paid as a result of a deductible, shall be paid by the Association and charged as an expense of the Association. In the event any Owner fails or refuses to pay assessments needed to pay insurance premiums or deductibles when due, the Association may pay said premium or deductible and levy against the non-paying Owner an Individual Assessment as set forth in Article VII, which shall be an amount due of those amounts, and shall be a lien upon the Unit until paid in full. The amount of the said assessment may include not only the actual cost of the premiums, and any late payment fees, the cost of the deductibles, but also an administrative charge payable to the Association, interest, and any and all attorney's fees incurred in connection with the collection of such assessments, penalties and fees.

Section 3. General Standards. All insurance policies maintained by the Association under this Article shall comply with the terms of N.C.G.S. §47F-3-113 and shall be written with a company or companies licensed to do business in the State of North Carolina and holding a rating of A or better in *Best's Insurance Guide*. In the event a company with at least such a rating is not available, such insurance is to be obtained from a company with the highest rating available in *Best's Insurance Guide*. Upon request, duplicate originals of all such policies or certificates of insurance shall be furnished to all Owners and Mortgagees.

Section 4. Owners' Insurance. It shall be the responsibility of each Owner, at such Owner's expense, to maintain additional fire and casualty and extended coverage insurance upon his personal property and any alterations or other improvements made to his Unit, and public liability insurance. Each Owner shall obtain and maintain liability insurance in the amount of at least \$100,000.00 per



occurrence. In addition, an Owner may obtain such other and additional insurance coverage on and in relation to the Owner's Unit as the Owner, in the Owner's sole discretion, shall conclude to be desirable. However, no such insurance coverage obtained by the Owner shall operate to decrease the amount which the Board, on behalf of all Owners, may realize under any policy maintained by the Board or otherwise affect any insurance coverage obtained by the Association or cause the diminution or termination of that insurance coverage. An Owner shall be liable to the Association for the amount of any such diminution of insurance proceeds to the Association resulting from insurance coverage maintained by the Owner and the Association shall be entitled to collect the amount of the diminution from the Owner as if the amount were an Individual Assessment, with the understanding that the Association may impose and foreclose a lien for the payment due. Any insurance obtained by an Owner shall include a provision waiving the particular insurance company's right of subrogation against the Association and other Owners, including Declarant, should Declarant be the Owner. The Board may require an Owner to file copies of such policies with the Association within thirty (30) days after purchase of the coverage to eliminate potential conflicts with any master policy carried by the Association.

Section 5. Distribution of Insurance Proceeds. All policies of property insurance procured by the Association shall provide that all losses shall be adjusted with, and all proceeds shall be payable to the Association as insurance trustee. The Association shall have exclusive authority to negotiate any and all losses under such policies, and the Association is hereby irrevocably appointed as agent and attorney-in-fact for each Owner to adjust all claims arising under such policies and to execute and deliver releases upon the payment of claims. The sole duty of the Association as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes set forth herein and for the benefit of the Owners and their Mortgagees in the following shares:

A. Proceeds on account of damage to any improvements in the Limited Common Areas shall be held by the Association and applied in the manner provided in Article X(6).

B. Proceeds on account of damage to Units shall be held in undivided shares for the Owners of damaged Units in proportion to the cost of repairing the damage to each such Owner's Unit, which cost shall be determined by the Association.

C. In the even a mortgagee endorsement or certificate has been issued with respect to a Unit, the share of that Owner shall be held in trust for the owner and its Mortgagee, as their respective interest may appear.

D. Proceeds of insurance policies received by the Association as insurance trustee shall be distributed to or for the benefit of the Owners in the manner provided in Article X(6).

Section 6. Responsibility for Reconstruction or Repair. If any portion of the Property is damaged by perils covered by property insurance maintained by the Association, the Association shall cause such damaged portions to be promptly reconstructed or repaired with the proceeds of insurance available for that purpose, if any, and any such reconstruction or repair shall be substantially in accordance with the plans and specifications for the original development of the Property, except as provided to the contrary in N.C.G.S. §47F-3-113(g). In addition, if such damage renders one or more of the then existing Units on the Property uninhabitable, the Association may, with the affirmative vote of eighty



percent (80%) of the votes of the Members and the written approval of the holders of eighty percent (80%) of the Mortgagees then in force with respect to the Lots, and with the approval of one hundred percent (100%) of the Owners and Mortgagees of the damaged Units proposed not to be rebuilt, elect not to reconstruct or repair such damaged Units. A meeting shall be called within ninety (90) days after the occurrence of such casualty. Upon any such election, the insurance proceeds attributable to such damage shall be promptly distributed to the Owners whose Units were damaged, or to their Mortgagees in accordance with the terms of the mortgage covering that Lot, in proportion to the reasonable cost of repairing damage to such Units; provided, however, that no Owner shall receive any portion of his share of such proceeds until all liens and encumbrances on his Lot have been paid, released or discharged and any debris resulting from such damage or destruction has been removed from the Property.

If: (a) the proceeds of insurance are not sufficient to repair damage or destruction of any part of the Property by fire or other casualty or (b) the damage or destruction is caused by any casualty not insured against, or (c) insurance proceeds are not available for repair or reconstruction by reason of the application of deductible clauses of applicable policies, then the repair or reconstruction of any damaged improvements within the Limited Common Areas shall be accomplished promptly by the Association and the extent of such repairs shall be an expense of the Association; and the repair or reconstruction of any improvements contained within any Lot shall be accomplished promptly by the Owner of the affected Lot at his expense.

Section 7. Procedure for Reconstruction or Repair. In the event of a casualty causing damage to any portion of the Property, the following provisions shall govern and apply:

A. Immediately after a casualty which causes damage to any portion of the Property, the Association shall obtain, or cause the affected Owners to obtain, reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board deems necessary.

B. If the proceeds of the casualty insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association (including the professional fees and premiums, if any), one or more special assessments shall be made against all Owners of the affected Lots (with respect to any deficiency in insurance proceeds for damage or destruction to Units or other improvements on Lots) or all Owners (with respect to any deficiency in insurance proceeds for damage or destruction to the Limited Common Areas or the improvements thereon) in sufficient amount to provide funds for the payment of such costs, and the proceeds of such special assessments shall be deposited with the Association; provided, however, that the Association may borrow funds to pay for such costs with the assent of eighty percent (80%) of the members of the Association voting at a meeting duly called for such purpose.

C. The proceeds of the property insurance referred to in Section 1(a) and the sums deposited with the Association from collections of special assessments proceeds of authorized loans, as provided in Section 7(b), shall constitute a construction fund which shall be held by the Association and applied to the payment of the cost of reconstruction and repair of the Property from time to time as the work progresses, but not more frequently than once in any calendar month. The Association shall make such payments upon a certificate dated not more than fifteen (15) days prior

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to such request, signed by an architect in charge or engineer in charge of the work who shall be selected by the Association, certifying that the sum then requested is justly due to contractors, subcontractors, materialmen, architects, engineers or other persons who have rendered services or furnished materials in connection with the work, giving a brief description of the services and materials, and certifying that the sum requested does not exceed the value of the services and materials described in the certificate. It shall be presumed that the first monies disbursed in payment of such costs of reconstruction and repair shall be from insurance proceeds; and if there is a balance in any construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be disbursed to the Association which may use such excess funds for any purpose not in violation of this Declaration in the sole discretion of the Board.

ARTICLE XI
Party Walls

Section 1. General Rules of Law to Apply. Each wall that is built as a part of the original construction of the Units upon the Properties and placed on the dividing line between the Units 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 or omissions shall apply thereto. If any portion of the original structures constructed on each Lot, including any party wall, any extension of a party wall, or any common fence, protrudes over an adjoining Lot, or into the Limited Common Elements, such structure, wall or fence shall be deemed to be a permitted encroachment upon the adjoining Lot or Limited Common Area, and the Owners and the Association shall neither maintain any action for the removal of the encroaching structure, wall or fence, nor any action for damages. If there is a protrusion as described in the immediately preceding sentence, it shall be deemed that the affected Owners or the Association have granted perpetual easements to the adjoining Owner or Owners for continuing maintenance and use of the encroaching structure, wall, or fence. The foregoing provision also shall apply to any replacements in conformance with the original structure, wall or fence constructed by Declarant. The provisions of this Section 1 shall be perpetual in duration and shall not be affected by an amendment of this Declaration.

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, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omission.

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

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. Easement and Right of Entry for Repair, Maintenance, and Reconstruction. Every Owner shall have an easement and right of entry upon the Lot of any other Owner to the extent reasonably necessary to perform repair, maintenance, or reconstruction of a party wall. Such repair, maintenance, or reconstruction shall be done expeditiously, and upon completion of the work, the Owner shall restore the adjoining Lot or Lots to as near the same condition as that which prevailed prior to commencement of the work as is reasonably practicable.

ARTICLE XII
Rights of Developer

The Declarant shall have, and there is hereby reserved to the Declarant, the following rights, powers, and privileges which shall be in addition to any other rights, powers and privileges reserved to the Declarant herein (but exercise of the rights reserved by or granted to the Declarant in this Article is subject to any approvals required to be given by the Master Declarant, the Master Association's Board of Directors, or others, pursuant to the terms of the Master Declaration or any other document requiring such approval):

A. To conform this Declaration to the requirements of any law or governmental agency having legal jurisdiction over Gardenwood or to qualify Gardenwood 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 or 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 controls, storm-water regulations, 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 North Carolina Department of Environmental and Natural Resources, the Department of Veterans Affairs, U. S. Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, Government National Mortgage Corporation, or 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 Declarant Control Period, shall be entitled to amend this Declaration pursuant to this Section. Declarant may at anytime alter the maximum allowable built-upon area for any Lot at anytime before the Lot is conveyed by the Declarant.

B. To comply with the terms of the Master Declaration.

C. Subject to the terms and conditions of the Master Declaration, Declarant may annex to and make a part of Gardenwood any other real property, whether now owned or hereafter acquired by Declarant or others, and whether developed by the Declarant or others (the "Additional Property") without the assent of the Lot Owners so long as the Additional Property is used for residential purposes (including but not limited to multifamily, condominiums, Town Homes, Garden Homes, Patio Homes, apartments, Common Areas, Limited Common Areas, roads, and other amenities



related thereto). Declarant is not required to annex any land to Gardenwood.

D. Subject to the written consent of the Master Declarant, this Declaration may be amended without Lot Owner's approval by the Declarant (or the Board in the case of sub-paragraphs II, III, IV, and V hereof), as follows:

- I. In any respect on or before December 31, 2015 provided Declarant retains Ownership of any Lot, provided the amendment does not materially alter or change any Owner's right to the use and enjoyment of such Owner's Lot and does not adversely affect the title to any Lot.
- II. To the extent this Declaration applies to Additional Property, including, but not limited to, amendments to add additional classes of Membership to the Association, to add, alter Lawn Maintenance and Landscape Elements or Limited Common Area, and to establish minimum square footage and other standards for structures.
- III. To correct any obvious error or inconsistency in drafting, typing, or reproduction.
- IV. To qualify the Association or the Property and Additional Property, or any portion thereof, for tax-exempt status.
- V. To incorporate or reflect any platting change as permitted by this Article or otherwise permitted herein.

E. So long as the Declarant or its designee shall retain Ownership of any Lot, it may utilize any such Lot for offices, models, or other purposes relating to the development, construction, sale or rental of Lots and dwellings located solely within Gardenwood and or Brunswick Forest. In addition, in connection with any of the above activities the Declarant and its agents shall have the right to park vehicles and materials on any street or within the right of way thereof. The Declarant may assign this limited commercial usage right to any other person or entities as it may choose.

ARTICLE XIII
Lots Subject to Declaration

The covenants and restrictions contained in this Declaration are for the purpose of protecting the value and desirability of Gardenwood and the Lots. 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 run with and bind the land and shall bind any person having at any time any interest or estate in any Lot, their heirs, successors, and assigns, 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 ten (10) years, unless an instrument signed by eighty (80%) of the then Lot Owners has been recorded within the year preceding any extension, agreeing to terminate this Declaration, in which case it shall terminate as of the date specified in such instrument. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

ARTICLE XIV
Enforcement and Remedies

Enforcement of these covenants shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, and the aggrieved party whether it be a Lot Owner, the Association, or the Master Association may request restraint of the violation or damages resulting from said violation.

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. In addition, 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 Master Association, its respective legal representatives, successors, and assigns, as further provided in the Master Declaration, including but not limited to Section 7.9 thereof. The Board shall be entitled to enforce its Articles of Incorporation, Bylaws, and Rules and Regulations. In addition to the remedies otherwise provided for herein concerning the collection of Assessments, the following remedies shall be available:

A. Association to Remedy Violation. In the event an Owner (or other occupant of a Lot) is in violation of or fails to perform any maintenance or other activities required by this Declaration, the Association's Bylaws, Charter or Rules and Regulations, the Board, after thirty (30) days notice, may enter upon the Lot and remedy the violation or perform the required maintenance or other activities, all at the expense of the Owner. The full amount of the cost of remedying the violation or performing such maintenance or other activities shall be chargeable to the Lot, including collection costs and reasonable attorneys' fees. Such amounts shall be due and payable within thirty (30) days after Owner is billed. If not paid within said thirty (30) day period, the amount thereof may immediately be added to and become a part of the Base Assessment levied against said Owner's Lot. In the event that any maintenance activities are necessitated to any Common or Limited 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, the cost of the same shall be the personal obligation of the Owner and if not paid to the Association upon demand, may immediately be added to and become a part of the Base Assessment levied against said Owner's Lot.

B. Fines. The Association may establish a schedule of and collect fines for the violation of this Declaration or of the Association's Articles of Incorporation, Bylaws, or Rules and Regulations. If an Owner does not pay the fine when due, the fine shall immediately become a part of and be added to the Base Assessment against the Owner's Lot and may be enforced by the



Association as all other Assessments provided for herein.

C. Suspension of Services and Privileges. The Association may suspend all services and privileges provided by the Association to an Owner (other than rights of access to Lots) for any period during which any Assessments against the Owner's Lot remain unpaid for at least thirty (30) days or for any period that the Owner or the Owner's Lot is otherwise in violation of this Declaration or the Association's Articles of Incorporation, Bylaws, or Rules or Regulations.

D. Miscellaneous. 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. The remedies provided herein are cumulative and are in addition to any other remedies provided by law.

ARTICLE XV
Amendments

Except in cases of amendments that may be executed by the Declarant and/or the Board, under this Declaration or by certain Lot Owners under Section 47F-2-118(b) of the Act, this Declaration may be amended by affirmative vote or written agreement signed by Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated, or by the Declarant if necessary for the exercise of any Special Declarant Right or development or other right reserved to the Declarant herein. Notwithstanding anything to the contrary herein, any and all amendments to the Declaration shall be subject to the prior written consent by the Master Declarant in accordance with the terms of the Master Declaration, including but not limited to Section 10.4 and Section 19.2 thereof.

ARTICLE XVI
Brunswick Forest

The Property and all Lots located in the Property are part of the Brunswick Forest planned community and are subject to and bound by that Declaration of Covenants, Conditions, and Restrictions for Brunswick Forest Residential Property "the Master Declaration"), recorded in Book 2359, Page 362, of the Brunswick County Registry, and all amendments thereto, **INCLUDING THE OBLIGATIONS TO (1) PAY ALL MASTER ASSOCIATION ASSESSMENTS WHICH ARE IN ADDITION TO THE ASSESSMENTS PROVIDED FOR IN THIS DECLARATION; (2) ABIDE BY THE ARCHITECTURAL REVIEW AND LAND RESTRICTIONS THEREUNDER, INCLUDING BUT NOT LIMITED TO THE PROVISIONS OF THE RESIDENTIAL DESIGN STANDARDS FOR GARDENWOOD AT BRUNSWICK FOREST, AND (3) COMPLY WITH THE TERMS OF ALL ADDITIONAL MASTER GOVERNING DOCUMENTS.** All Members of the Association are also members of the Master Association. Gardenwood at Brunswick Forest is a "Neighborhood" within Brunswick Forest as that term is defined in the Master Declaration. Under the terms of the Master Declaration, the Brunswick Forest Master Association, Inc. has the right to veto any action taken by the Association hereunder and to require specific actions to be taken by the Association.

ARTICLE XVII
Severability

Invalidation of any one of these covenants or any part thereof by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect, and the failure of any person or persons to take action to enforce these covenants shall not be construed as a waiver of any future enforcement rights.

IN TESTIMONY WHEREOF, the undersigned Declarant has caused this instrument to be executed as of the day and year first above-written.

Hearthside Builders, Inc.

By: [Signature]
Name: SANDY D. WOOD
Title: President

STATE OF NORTH CAROLINA

COUNTY OF New Hanover

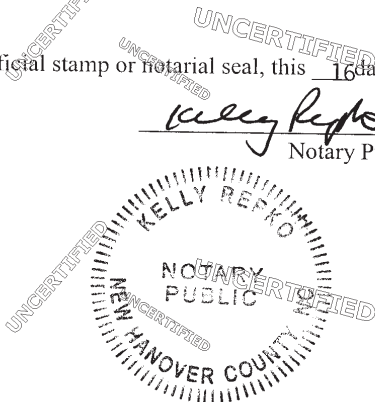
I Kelly Refko, a Notary Public in and for the State and County aforesaid, do hereby certify that Sandy D. Wood personally came before me this day and acknowledged that he is the President of HEARTHSIDE BUILDERS, INC., a North Carolina corporation, and that he as President, being authorized to do so, executed this instrument on behalf of the corporation.

Witness my hand and official stamp or notarial seal, this 16 day of August, 2007.

[Signature]
Notary Public

My Commission Expires:

5-5-2012



FUNSTON LAND & TIMBER, LLC
a North Carolina limited liability company

By: _____
Name: Allen Jefferson Earp
Its: Manager

STATE OF NORTH CAROLINA
COUNTY OF New Hanover

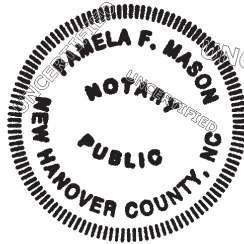
I, Pamela F. Mason, a Notary Public for said County and State, do hereby certify that Allen Jefferson Earp, Manager of FUNSTON LAND & TIMBER, LLC, a North Carolina limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf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

Witness my hand and notarial seal this 14th day of August, 2007.

Pamela F. Mason
Notary Public

My Commission Expires:

10-26-11





CONSENT OF MORTGAGEE

~~Branch Banking and Trust Company~~, a North Carolina banking corporation, is the holder of that certain Deed of Trust on the property described in Exhibit A, said Deed of Trust having been filed in Book 21659, at Page 990 ^{**} in the Office of the Register of Deeds of Brunswick County, and as holder of said Deed of Trust does hereby consent to the terms, conditions and covenants in the Declaration and agrees that the lien of said Deed of Trust is subject to the terms, conditions and covenants contained in said Declaration.

In witness whereof, Branch Banking and Trust Company, has caused this Consent of Mortgagee to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, this the 15 day of August, 2007, and Robert L. Wall, as Trustee, has hereunto set his hand and seal, this the 15 day of August, 2007.

Branch Banking and Trust Company BANK

By: [Signature]
S. V. V. President Brett Barnes

[Signature]
Robert L. Wall
SENIOR VICE PRESIDENT, Trustee

** Amendment to Deed of Trust in Book 21659 at Page 982
amending Deed of Trust recorded in Book 2425 at Page 414

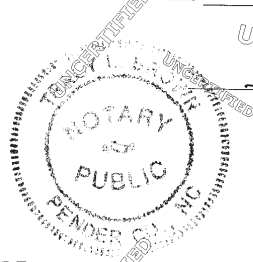


STATE OF NORTH CAROLINA

COUNTY OF Pender

I, Trace L. Brown a Notary Public of the State and County aforesaid, certify that Robert Barnes personally came before me this day and acknowledged that he is Sr. vice President of Branch Banking and Trust Company BANK, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Sr. vice President.

WITNESS my hand and official seal this 15 day of August, 2007.



Trace L. Brown
Notary Public

My Commission Expires:

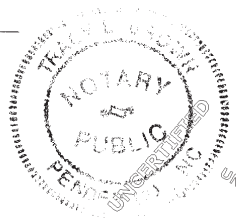
5/14/2010

STATE OF NORTH CAROLINA

COUNTY OF Pender

I, Trace L. Brown, a Notary Public in and for the State and County aforesaid, do hereby certify that Robert L. Wall, Trustee, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and official seal this the 15 day of August, 2007.



Trace L. Brown
Notary Public

My Commission Expires:

5/14/2010

UNCERTIFIED



EXHIBIT A

BEING all of those certain tracts or parcels of land lying and being in Town of Leland, Towncreek Township, Brunswick County, North Carolina, and being more particularly described as follows:

ALL of that property in Phase 1, Section 2, Village 4A of Brunswick Forest (also known as "Gardenwood at Brunswick Forest") as shown on a map thereof entitled "Final Plat of Gardenwood at Brunswick Forest Phase 1, Section 2, Village 4A, Lots 1 Thru 12, 43 Thru 48, 61 Thru 72, 13 Thru 42 and 49 Thru 60" recorded in Map Cabinet 41 at Pages 70 and 71 of the Brunswick County Registry, reference to said map is hereby made for a more particular description.

UNCERTIFIED

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