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GUILFORD CO, NC FEE \$32.00

PRESENTED & RECORDED:

05-13-2009 02:51:57 PM

JEFF L. THIGPEN

REGISTER OF DEEDS

BY: JANE SCHULTZ

DEPUTY-GB

**BK: R 7012**

**PG: 26-32**

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*plu Isaacson*

Prepared by and return to: H. David Niblock, Esquire, 5826 Samet Drive, Suite 105,  
High Point, North Carolina 28265

STATE OF NORTH CAROLINA	)	<b>FOURTH AMENDMENT TO THE AMENDED</b>
	)	<b>AND RESTATED DECLARATION OF</b>
	)	<b>COVENANTS, CONDITIONS AND</b>
COUNTY OF GUILFORD	)	<b>RESTRICTIONS, TANNER WOODS</b>

BMW HOMES, LLC, a North Carolina Limited Liability Company (the "Declarant"), under the Amended and Restated Declaration of Covenants, Conditions and Restrictions, Tanner Woods, dated February 27, 2008, and recorded in Book 6859, at Pages 1084 through 1102, in the Office of the Register of Deeds of Guilford County, North Carolina (the "Declaration"), does hereby amend the Declaration and does hereby declare:

**WITNESSETH**

THAT WHEREAS, the Declarant made and published that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions Tanner Woods (the "Original Declaration") dated the February 27<sup>th</sup>, 2008, recorded in Book 6859 at Page 1084-1102, in the Office of the Register of Deeds, Guilford County, North Carolina, concerning that property more particularly described in Plat Book 170 at Page 144 in the Office of the Register of Deeds, Guilford County, North Carolina; and

WHEREAS, the Declarant made and published that certain First Amendment to the Amended and Restated Declaration of Covenants, Conditions and Restrictions Tanner Woods dated May 29, 2008, recorded in Book 6897 at Page 2572-2576, in the Office of the Register of Deeds, Guilford County, North Carolina, concerning that property more particularly described in Plat Book 174 at Page 175, in the Office of the Register of Deeds, Guilford County, North Carolina; and

WHEREAS, the Declarant made and published that certain Second Amendment to the Amended and Restated Declaration of Covenants, Conditions and Restrictions Tanner Woods dated May 29, 2008, recorded in Book 6946 at Page 132-136, in the Office of the Register of Deeds, Guilford County, North Carolina, concerning that property more particularly described in Plat Book 175 at Page 129, in the Office of the Register of Deeds, Guilford County, North Carolina; and

WHEREAS, the Declarant made and published that certain Third Amendment to the Amended and Restated Declaration of Covenants, Conditions and Restrictions Tanner Woods dated April 28th, 2009, recorded in Book 7003 at Page 1444-1448, in the Office of the Register of Deeds, Guilford County, North Carolina, concerning that property more particularly described in Plat Book 177 at Page 2, in the Office of the Register of Deeds, Guilford County, North Carolina (the Original Declaration, First Amendment, Second Amendment and Third Amendment are collectively referred to hereinafter as the "Declaration"); and

WHEREAS, the Declarant is the owner of Lots in Tanner Woods and has the right to amend the Declaration in accordance with the provisions of Article XI, Section 3 of the Declaration; and

WHEREAS, the Declarant desires to amend certain provisions of the Declaration, as set forth herein.

NOW, THEREFORE, in consideration of the premises, and pursuant to Article XI, Section 3 of the Declaration, the Declarant hereby amends the Declaration with the intent that any and all person, firms, corporations or other entities that now own or may hereafter acquire any of the property which is a part of the development described in the Declaration, including all property later annexed into said development, that the same shall be and is hereby subject to the following amendment to the restrictions, covenants, conditions, easements, assessments and liens set forth in the Declaration and relating to the use and occupancy thereof, said amendment to the Declaration to be construed as covenants running with the land which shall be binding on all parties having acquired or acquiring any right, title or interest in the said property or any part thereof, and which shall inure to the benefit of each owner thereof.

Accordingly, every person or other party now owning or hereafter acquiring any of the said property made subject to the Declaration, as amended herein, by acceptance of a deed or contract for deed or other conveyance of any interest in or to said property, whether or not it shall be so expressed in any such deed, contract for deed or other conveyance, and regardless of whether the same shall be signed by such person and whether or not such person shall otherwise consent in writing, shall take such property interest subject to the Declaration, as amended herein, and to the terms and conditions thereof and shall be deemed to have assented to same.

The Declaration is hereby amended as follows:

1. Article III of the Declaration is hereby deleted in its entirety and the following substituted in its stead:

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS

**Section 1.** Every Owner of a Lot, which is subject to assessment, including contract purchasers, but excluding persons who hold an interest merely as security for the performance of any obligations, shall be a Member of the Association, and shall be entitled to vote. Membership shall be appurtenant to and may not be separate from ownership of any Lot, which is subject to assessment.

**Section 2.** The Association shall have two (2) classes of voting membership;

**Class A.** Class A member(s) shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

**Class B.** The Class B member(s) shall be the Declarant and shall be entitled to four (4) votes for each lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier;

- a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- b) January 1, 2012.

2. As hereby amended, all the provisions of the Declaration are hereby ratified and remain in full force and effect.

3. This Amendment is executed by Christopher T. Dunbar, manager of BMW Homes, LLC, said manager having been named and appointed manager of BMW Homes, LLC by BRC Tanner Woods, LLC, the sole member of BMW Homes, LLC.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Fourth Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions, Tanner Woods, on this the 8 day of May, 2009.

{SIGNATURE PAGE TO FOLLOW}

**BMW HOMES, LLC**

By: Christopher T. Dunbar  
Name: Christopher T. Dunbar  
Title: Manager

**SUNTRUST BANK**, a national banking association, as the holder of an existing loan secured by the Deed of Trust recorded in Book 6349 at Page 1425, in the office of the Register of Deeds of Guilford County, North Carolina, and **SOUTHLAND ASSOCIATES, INC.**, a North Carolina Corporation, as Trustee under the Deed of Trust, join in the execution of this instrument for the purpose of subjecting the aforesaid Deed of Trust to the terms and provisions of this Fourth Amendment to the Amended and Restated Declaration of Covenants, Conditions and Restrictions, Tanner Woods.

**SUNTRUST BANK**

By: [Signature]  
Vice President

Date: 4.28.09

**SOUTHLAND ASSOCIATES, INC., Trustee**

By: [Signature]  
Vice President

Date: 4.28.09

[NOTARY PAGES TO FOLLOW]

STATE OF NORTH CAROLINA

GUILFORD COUNTY

I certify that the following person personally appeared before me this day, acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Christopher T. Dunbar.

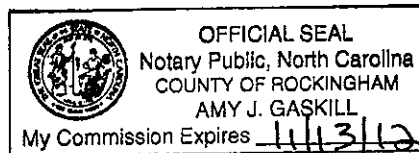
[Name of person signing]

Today's Date: May 8, 2009

Amy J Gaskill  
[Notary's signature as name appears on seal]

Amy J Gaskill  
[Notary's printed name as name appears on seal]

My commission expires: Nov. 13, 2012



STATE OF NORTH CAROLINA

GUILFORD COUNTY

I certify that the following person personally appeared before me this day, acknowledging to me that he/she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: David Colson.

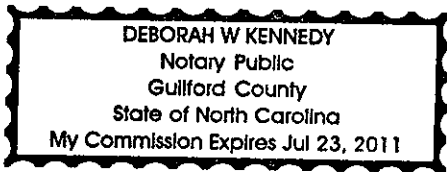
[Name of person signing]

Today's Date: Apri 28th, 2009

Deborah W. Kennedy  
[Notary's signature as name appears on seal]

Deborah W. Kennedy  
[Notary's printed name as name appears on seal]

My commission expires: July 23, 2011



STATE OF NORTH CAROLINA

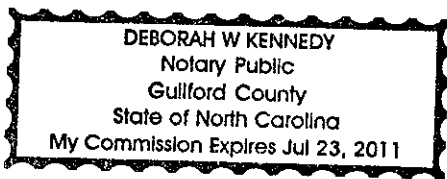
GUILFORD COUNTY

I certify that the following person personally appeared before me this day, acknowledging to me that he/she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Thomas C. Peters.  
[Name of person signing]

Today's Date: April 28th, 2009

Deborah W. Kennedy  
[Notary's signature as name appears on seal]

Deborah W. Kennedy  
[Notary's printed name as name appears on seal]



My commission expires: July 23, 2011