

Copy

**FIRST AMENDED**  
**MASTER DEED OF HORIZONTAL PROPERTY REGIME**  
**BELLAFONT GARDENS, A PLANNED UNIT DEVELOPMENT**

**(FORMERLY KNOWN AS ZION VALLEY ESTATES**  
**A PLANNED UNIT DEVELOPMENT)**

Doc ID: 008355400044 Type: REL  
Recorded: 04/07/2005 at 03:25:48 PM  
Fee Amt: \$137.00 Page 1 of 44  
Washington County, AR  
Bette Stamps Circuit Clerk  
File 2005-00014912

This First Amended Master Deed ("Master Deed") is made this 31 day of March 2005, pursuant to the Horizontal Property Regime as defined and established in the Arkansas Horizontal Property Act, Ark. Code Ann. § 18-13-101 et. seq. (the "Arkansas Horizontal Property Act").

NOW, THEREFORE, for and in consideration of the premises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Declarant states and declares:

**DECLARATIONS**

1. Declarant, along with the Current Owners, are the Owners of certain real property (the "Property") located in Fayetteville, Washington County, Arkansas, more particularly described as follows:

A part of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) and part of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of Section Twenty-four (24), Township Seventeen (17) North, Range Thirty (30) West, and being more particularly described as follows: Beginning at the Southeast corner of said Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) and running thence North 86° 47' 23" West with the South line of said forty (40) acre tract 657.48 feet; thence North 02° 41' 26" East 1,995.41 feet to the center of Zion Road; thence South 86° 55' 23" East 350.47 feet; thence South 02° 38' 24" West 258.66 feet; thence South 87° 04' 36" East 303.82 feet; thence South 02° 12' 21" West 163.76 feet; thence North 87° 21' 27" West 100.00 feet; thence South 02° 36' 18" West 245.00 feet; thence South 87° 21' 31" East 100.00 feet; thence South 02° 39' 22" West 899.73 feet; thence South 02° 36' 17" West 430.63 feet to the point of beginning, containing 27.72 acres, more or less.

2. The Current Owners are the Owners of single-family housing units that have been constructed on the property (the "Units"), and Declarant is the Owner of lots upon which additional Units shall be constructed and other improvements that are constructed on or will be constructed on the Property and are more particularly described in the Plans (the "Plans"), which are attached hereto as Exhibit "A" and by this reference are made a part hereof.

3. Declarant desires and intends to sell and convey Declarant's Units and interests in the Property and other improvements to various persons subject to the protective restrictions, conditions, covenants, reservations, liens and charges set forth in this Master Deed.

Copy

4. The easements, restrictions, covenants, conditions, reservations, liens and charges herein shall amend and supersede in all respects the Bill of Assurance, filed of record on November 17, 1995 as Document Number 95062340 in the records of the Recorder of Washington County, Arkansas, and the Master Deed of Horizontal Property Regime Zion Valley Estates A Planned Unit Development, filed of record on January 24, 2000 as Document Number 2000005993 in the records of the Recorder of Washington County, Arkansas (the "First Master Deed").

NOW, THEREFORE, Declarant and the Current Owners hereby declare that all Property and Units and improvements thereon, including Units and improvements constructed subsequent hereto, are held and shall be held, conveyed, encumbered, leased, rented, used, occupied and improved subject to the following limitations, covenants, conditions, restrictions, reservations, liens and charges, all of which are hereby declared and established and agreed to be in furtherance of a general plan for the sale of Units under the Arkansas Horizontal Property Act and all of which are declared and established for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property, Units, and other improvements. The limitations, covenants, conditions, reservations, liens, charges and restrictions are hereby established and imposed on the Property, Units and other improvements for the benefit thereof and for the benefit of each and every individual Unit described herein and for each and every Owner of one or more Units and the Owners of any interest of any kind or character in the Property or Units or any portion thereof.

The limitations, liens, covenants, conditions, reservations, charges and restrictions shall be covenants that run with the Property for a period of thirty (30) years and shall be binding on all parties having or acquiring any right, title or interest in the Property and Units or any part thereof and their heirs and assigns, whether as sole Owner, joint Owner, lessee, tenant, occupant or otherwise, and may be specifically enforced in any court having jurisdiction. After the expiration of the term of this Master Deed, the Regime may be continued upon the vote of a two-thirds (2/3) majority in interest of the Owners.

**ARTICLE I**  
**DEFINITIONS**

Whenever used in this Master Deed, the following terms shall have the following meanings:

1. Annual Assessment. "Annual Assessment" shall mean and refer to the Assessments made upon the Owners by the Association pursuant to the provisions of Section 3, Article XV of this Master Deed.
2. Assessment. "Assessment" and "Assessments" shall mean and refer to any and all Initial, Monthly, Annual or Emergency Assessments made upon the Owners pursuant to the provisions of Article XV of this Master Deed.
3. Association. "Association" shall mean and refer to the Bellafont Gardens Property Owners' Association, Inc., an Arkansas non-profit corporation charged with the responsibility for the operation of the Property, as more fully set forth herein and in the Articles of Incorporation of the Association and in the By-Laws of the Association, copies of which were attached to the First Master Deed.

Copy

4. Board. "Board" shall mean and refer to the Board of Directors of the Bellafont Gardens Property Owners' Association, Inc., which shall be the governing body of the Bellafont Gardens Property Owners' Association, Inc. The Board shall be elected by the Owners as more fully described in the By-Laws.

5. By-Laws. "By-Laws" shall mean and refer to the duly adopted by-laws of the Bellafont Gardens Property Owners' Association, Inc., a copy of which is attached hereto as Exhibit "B" and made a part hereof, as such By-Laws may be amended, changed or modified from time to time by the Owners.

6. Common Areas. Common Areas include the following elements of the Property and Units and other improvements:

- A. Those items designated as Common Elements by the Arkansas Horizontal Property Act.
- B. The Property, except those portions thereof where a Unit is located.
- C. The gardens, fences, walks, water impoundments, fountains, streets and parking areas.
- D. The swimming pool and pool house.
- E. Those systems or portions thereof located on the Property and on Units providing central services, including gas, telephone, light, water, sewerage, irrigation, electricity and security.

7. Common Expenses. Common Expenses shall mean the following:

- A. Expenses of administration, maintenance, security, repair or replacement of Common Areas;
- B. Expenses declared Common Expenses by provisions of this Master Deed;
- C. Expenses declared Common Expenses by the provisions of the Arkansas Horizontal Property Act;
- D. Expenses declared Common Expenses by the Board;
- E. Expenses of insuring the Property; and
- F. Expenses of central services for gas, electricity, water, sewage disposal and refuse disposal and real and personal property taxes on Common Areas.

8. Current Owner. "Current Owner" shall mean and refer to the owners of Units of the Property at the time of execution of this Master Deed.

9. Declarant. "Declarant" shall mean and refer to the owner of the majority of the Units.

Copy

10. Delinquent Assessment. "Delinquent Assessment" shall mean and refer to any Assessment that is not paid when due and that is a lien upon the Unit for which such Assessment is made, pursuant to the provisions of Section 9 of Article XV of this Master Deed.

11. Domestic Animals. "Domestic Animals" shall mean and refer to dogs, cats and other household animals that are normally kept, but shall exclude livestock, horses, cattle, pigs, sheep, goats, rabbits, poultry, fowl, pot-bellied pigs, snakes, animals that by their nature are aggressive or dangerous, wild animals and venomous animals.

12. Emergency Assessment. "Emergency Assessment" shall mean and refer to the Assessments made upon the Owners by the Association pursuant to the provisions of Section 3, Article XV of this Master Deed.

13. Improvements. "Improvements" shall mean and refer to all Units, buildings, outbuildings, streets, roads, driveways, parking areas, fences, patios, water impoundments, fountains, retaining walls, other types of walls, hedges, landscaping, poles, satellite dishes, antennas and any other structure of any kind.

14. Initial Assessment. "Initial Assessment" shall mean and refer to the Assessment, payable upon purchase of a Unit, made upon the Owners by the Association pursuant to the provisions of Section 2, Article XV of this Master Deed.

15. Insurance Trustee. "Insurance Trustee" shall mean and refer to Declarant, as Trustee or such other entity as may be designated by the Board as insurance trustee for the Association pursuant to Article IX of this Master Deed.

16. Limited Common Areas. "Limited Common Areas" shall mean and refer to those parts of the Common Areas that are limited to and reserved for the use of the Owners of one or more, but fewer than all, of the Units. The Limited Common Areas shall include any balcony, deck, patio, entryway or porch adjacent to a Unit, including, but not limited to, all such items designated as Limited Common Areas on the Plans. The patio that is accessible from, associated with and adjoining a particular Unit, without further reference thereto, shall be used in connection with such Unit to the exclusion of the use of such patio by the other Owners, except by invitation. Limited Common Areas shall also include the driveway and parking areas associated with a particular Unit, as set forth in the Plans.

17. Monthly Assessment. "Monthly Assessment" shall mean and refer to the Assessments, payable monthly, made upon the Owners by the Association pursuant to the provisions of Section 2, Article XV of this Master Deed.

18. Mortgagee. "Mortgagee" shall mean and refer to the holder of record of any mortgage upon any Unit or the Common Areas, or any insurer or guarantor of any such mortgage, that has notified the Association, in writing, of its name and address and status as a holder, insurer or guarantor of such mortgage. Such notice will be deemed to include a request that the Mortgagee be given the notices and other rights described in Articles IX and XXI hereof.

19. Owner. "Owner" and "Owners" shall mean and refer to the Person owning a Unit.

Copy

20. Person. "Person" shall mean and refer to a natural person, corporation, partnership, association, trust or other legal entity or any combination thereof.

21. Plans. "Plans" shall mean and refer to a scale drawing of the Property and Units showing the location of the Units and other improvements thereon, a copy of which is attached hereto as Exhibit "A." Plans shall include the plat of Zion Valley Estates and any amendments thereto, as recorded in the records of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas. Plans shall also include the plans for the construction of the Units and other improvements located on the Property. The Plans depict the approximate location of the Units and examples of construction detail as well as the footprint, elevation (front and back) and yard detail and the dimensions, areas and locations of Common Areas. Units may be situated in accordance with the Plans, or may be located as otherwise desirable and approved by the Board.

22. Property. "Property" shall mean and refer to the real property located in Fayetteville, Washington County, Arkansas as set forth in this Master Deed, inclusive of all Units, all Common Areas thereon and all easements, rights and appurtenances belonging thereto, together with all personal property intended for use in connection therewith that has been or is intended to be submitted to the provisions of the Arkansas Horizontal Property Act.

23. Unit. "Unit" or "Units" shall mean and refer to any named, numbered tract shown on the Plat, together with any Improvements thereon.

**ARTICLE II**  
**BASIC VALUES OF PROPERTY AND UNITS**

For purposes of this Master Deed and for purposes of rules, By-Laws and provisions of the law dependent on the value herein assigned, the basic value of the Property is \$1,200,000.00. The basic value of each Unit, the percentage pertaining to each Owner in the expenses and ownership of the Common Areas and the voting rights of each Unit are as follows:

<u>Unit No.</u>	<u>Basic Value</u>	<u>Ownership Percentage of Common Areas</u>	<u>Number of Votes</u>
1	\$ 12,000.00	1.0000%	1
2	\$ 12,000.00	1.0000%	1
3	\$ 12,000.00	1.0000%	1
4	\$ 12,000.00	1.0000%	1
5	\$ 12,000.00	1.0000%	1
6	\$ 12,000.00	1.0000%	1
7	\$ 12,000.00	1.0000%	1
8	\$ 12,000.00	1.0000%	1
9	\$ 12,000.00	1.0000%	1
10	\$ 12,000.00	1.0000%	1
11	\$ 12,000.00	1.0000%	1
12	\$ 12,000.00	1.0000%	1
13	\$ 12,000.00	1.0000%	1
14	\$ 12,000.00	1.0000%	1

Copy

<u>Unit No.</u>	<u>Basic Value</u>	<u>Ownership Percentage of Common Areas</u>	<u>Number of Votes</u>
15	\$ 12,000.00	1.0000%	1
16	\$ 12,000.00	1.0000%	1
17	\$ 12,000.00	1.0000%	1
18	\$ 12,000.00	1.0000%	1
19	\$ 12,000.00	1.0000%	1
20	\$ 12,000.00	1.0000%	1
21	\$ 12,000.00	1.0000%	1
22	\$ 12,000.00	1.0000%	1
23	\$ 12,000.00	1.0000%	1
24	\$ 12,000.00	1.0000%	1
25	\$ 12,000.00	1.0000%	1
26	\$ 12,000.00	1.0000%	1
27	\$ 12,000.00	1.0000%	1
28	\$ 12,000.00	1.0000%	1
29	\$ 12,000.00	1.0000%	1
30	\$ 12,000.00	1.0000%	1
31	\$ 12,000.00	1.0000%	1
32	\$ 12,000.00	1.0000%	1
33	\$ 12,000.00	1.0000%	1
34	\$ 12,000.00	1.0000%	1
35	\$ 12,000.00	1.0000%	1
36	\$ 12,000.00	1.0000%	1
37	\$ 12,000.00	1.0000%	1
38	\$ 12,000.00	1.0000%	1
39	\$ 12,000.00	1.0000%	1
40	\$ 12,000.00	1.0000%	1
41	\$ 12,000.00	1.0000%	1
42	\$ 12,000.00	1.0000%	1
43	\$ 12,000.00	1.0000%	1
44	\$ 12,000.00	1.0000%	1
45	\$ 12,000.00	1.0000%	1
46	\$ 12,000.00	1.0000%	1
47	\$ 12,000.00	1.0000%	1
48	\$ 12,000.00	1.0000%	1
49	\$ 12,000.00	1.0000%	1
50	\$ 12,000.00	1.0000%	1
51	\$ 12,000.00	1.0000%	1
52	\$ 12,000.00	1.0000%	1
53	\$ 12,000.00	1.0000%	1
54	\$ 12,000.00	1.0000%	1
55	\$ 12,000.00	1.0000%	1
56	\$ 12,000.00	1.0000%	1
57	\$ 12,000.00	1.0000%	1

Copy

<u>Unit No.</u>	<u>Basic Value</u>	<u>Ownership Percentage of Common Areas</u>	<u>Number of Votes</u>
58	\$ 12,000.00	1.0000%	1
59	\$ 12,000.00	1.0000%	1
60	\$ 12,000.00	1.0000%	1
61	\$ 12,000.00	1.0000%	1
62	\$ 12,000.00	1.0000%	1
63	\$ 12,000.00	1.0000%	1
64	\$ 12,000.00	1.0000%	1
65	\$ 12,000.00	1.0000%	1
66	\$ 12,000.00	1.0000%	1
67	\$ 12,000.00	1.0000%	1
68	\$ 12,000.00	1.0000%	1
69	\$ 12,000.00	1.0000%	1
70	\$ 12,000.00	1.0000%	1
71	\$ 12,000.00	1.0000%	1
72	\$ 12,000.00	1.0000%	1
73	\$ 12,000.00	1.0000%	1
74	\$ 12,000.00	1.0000%	1
75	\$ 12,000.00	1.0000%	1
76	\$ 12,000.00	1.0000%	1
77	\$ 12,000.00	1.0000%	1
78	\$ 12,000.00	1.0000%	1
79	\$ 12,000.00	1.0000%	1
80	\$ 12,000.00	1.0000%	1
81	\$ 12,000.00	1.0000%	1
82	\$ 12,000.00	1.0000%	1
83	\$ 12,000.00	1.0000%	1
84	\$ 12,000.00	1.0000%	1
85	\$ 12,000.00	1.0000%	1
86	\$ 12,000.00	1.0000%	1
87	\$ 12,000.00	1.0000%	1
88	\$ 12,000.00	1.0000%	1
89	\$ 12,000.00	1.0000%	1
90	\$ 12,000.00	1.0000%	1
91	\$ 12,000.00	1.0000%	1
92	\$ 12,000.00	1.0000%	1
93	\$ 12,000.00	1.0000%	1
94	\$ 12,000.00	1.0000%	1
95	\$ 12,000.00	1.0000%	1
96	\$ 12,000.00	1.0000%	1
97	\$ 12,000.00	1.0000%	1
98	\$ 12,000.00	1.0000%	1
99	\$ 12,000.00	1.0000%	1

Copy

<u>Unit No.</u>	<u>Basic Value</u>	<u>Ownership Percentage of Common Areas</u>	<u>Number of Votes</u>
100	\$ 12,000.00	1.0000%	1
Total	\$1,200,000.00	100.0000%	100

**ARTICLE III**  
**PROPORTIONATE INTEREST IN COMMON**  
**AREAS AND COMMON EXPENSES**

The proportionate interest of each Owner in the Common Areas is equal to the percentage resulting from a comparison of the basic value of the Owner's Unit as determined in Article II above with and in relation to the basic value of the whole Property as determined in Article II above. This percentage shall be determined by dividing the basic value of the Owner's Unit as determined in Article II by the basic value of the Property as determined in Article II. The quotient shall be rounded off to four decimal spaces and expressed as a percentage. The determination of such percentage shall not be computed by any other formula or value and shall not be altered without the acquiescence of all Owners. The basic value is expressed for the sole purpose of determining the percentage ownership in the Common Areas, is irrespective of the actual value of each Unit, and shall not prevent any Owner from fixing a different circumstantial value to his Unit in all types of acts and contracts. Each Owner shall be entitled to an undivided interest in the Common Areas and shall be liable for the Common Expenses in the percentage so established.

**ARTICLE IV**  
**AGENT FOR SERVICE OF PROCESS**

The name and address of the person to receive service of process in actions against the Association is Kirk E. Elsass, 3900 Front Street, P.O. Box 8098, Fayetteville, Arkansas 72702.

**ARTICLE V**  
**AMENDMENT OF MASTER DEED**

The Master Deed may be amended only by the consent of not less than a two-thirds (2/3) majority of the Owners of the undivided interests in the Common Areas voting in person or by written proxy at a meeting of the Owners duly called and held for that purpose after not less than ten (10) days prior written notice to all Owners, and the approval, in writing, of at least fifty-one percent (51%) of the Mortgagees. Any amendment to this Master Deed must be approved by the City Council of the City of Fayetteville, Arkansas. Any such amendment shall become effective, after approval by the City Council of the City of Fayetteville, Arkansas, upon filing with the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, an instrument in writing setting forth such amendment, duly executed and acknowledged by the Chairman of the Board and attested by the Secretary, except if the amendment is made pursuant to Articles VI or XXII(10) hereof. This Master Deed may be amended by the Declarant without the consent of any other Owner or any Mortgagee pursuant to the provisions of Article VI or Article XXII(10), subject only to the



Copy

approval of the City Council of the City of Fayetteville, Arkansas. No meeting for the purpose of amending the Master Deed may be called by less than 50% of the Owners of the undivided interest in the Common Areas.

**ARTICLE VI**  
**CHANGE OF NAME**

The Declarant and Current Owners desire and hereby agree that the Property development be known as "Bellafont Gardens." The former name of the Property development, "Zion Valley Estates," shall be phased out and the Association is authorized to carry out any and all actions necessary or desirable in connection with such change of name, including amending the Articles of Incorporation and Bylaws of the Association to reflect the new name.

**ARTICLE VII**  
**PLANS AND AMENDMENT TO PLANS**

The Declarant reserves the right to change the design and arrangement of all Units and to alter the boundaries between Units so long as the Declarant owns the Units so altered. Notwithstanding any provision to the contrary, all Units owned by Declarant are exempt from any requirements of approval by the Board or the Association, as applicable. No other Owner shall have the right granted to Declarant to so act. If Declarant shall make any such changes in Units, such changes shall be reflected by an amendment to this Master Deed and the Plans. An amendment of the Master Deed reflecting such alteration of a Unit by the Declarant need be signed and acknowledged only by the Declarant and shall be subject to the approval of the City Council of the City of Fayetteville, Arkansas. Such amendment need not be approved by the Association, Mortgagees or the other Owners, provided it is limited to changes permissible herein.

**ARTICLE VIII**  
**UNITS**

1. Identification of Units. The Units are identified by the numerals set forth on the Plans. Each Unit is identified by a separate number as set forth on the Plans. Changes in the Plans resulting in an increase or decrease in the number of Units shall, in the event the change results in an increase in the number of Units, cause a corresponding increase in the numbers designating such Units, and in the case of a decrease in the number of Units, shall cause a corresponding decrease in the numbers designating the Units. All conveyances of Units shall be made by reference to the Unit designations set forth in the Plans using the following language: "Unit Number \_\_\_\_\_ of the Bellafont Gardens Horizontal Property Regime."

2. Common Areas. Every instrument of conveyance, deed, mortgage or other instrument affecting title to a Unit that legally describes the Unit in the manner set forth above shall be construed to describe the Unit, together with the undivided interest in the Common Areas and the Limited Common Areas appurtenant to such Unit, together with all fixtures and improvements contained on such Unit, and to incorporate all the rights incident to ownership of a Unit and all the limitations of ownership of a Unit as described in this Master Deed, including the easement of enjoyment of use of the Common Areas.

Copy

3. Taxation. Pursuant to the provisions of Ark. Code Ann. § 18-13-120, taxes, assessments and other charges of the State, of any political subdivision, of any special improvement district or of any other taxing or assessing authority shall be assessed against and collected on each individual Unit. Taxes assessed on the Common Areas shall be assessed, prorata, against each Unit. Each tax, assessment or other charge on such Unit shall be carried on the tax books as a separate and distinct entity for such purpose and not on the Property as a whole. The lien for taxes assessed to a Unit shall be confined to the individual Unit and the undivided interest in the Common Areas appurtenant to such Unit. No forfeiture or sale of the Property as a whole for delinquent taxes, assessments or charges shall ever divest or in any way affect the title to an individual Unit so long as taxes, assessments and charges on such individual Unit are currently paid. No forfeiture or sale of any Unit for delinquent taxes, assessments or other governmental charge shall divest or in any way affect title to any other Unit or to the Common Areas, except as to the undivided interest in the Common Areas appurtenant to such Unit forfeited or sold.

4. Unit Boundaries. The boundaries of each Unit are located as shown on the Plans. The boundaries shall consist of the vertical planes extending above and below the boundaries of the Unit, inclusive of the overhang of the roof and all Improvements on the Unit, as shown on the Plans. The boundary of party walls between Units shall be defined on the Plans.

5. Party Walls. Each Unit is owned subject to, and together with the mutual easements of support and shelter over and to the party walls provided for party walls by law. Any reconstruction, repair or removal of structures within a Unit affecting the party wall shall be undertaken only with the express written consent of the Owner of the adjacent Unit sharing the party wall and the Board. In the event, because of reconstruction, repair or removal of structures affecting elements supported or sheltered by the party wall, the removing Owner shall shore, reconstruct and weather proof such party wall so it can perform the function of support and shelter. If such reconstruction, repair or removal is to be permanent, such Owner shall finish all surfaces exposed to weather in an architecturally finished manner consistent with the remainder of the building.

6. Materialman and Mechanics' Liens. No labor performed or materials furnished for use and incorporated in any Unit with the consent of or at the request of the Owner of a Unit, or the Owner's agent, shall be the basis for filing of a lien against a Unit of any other Owner not expressly consenting to or requesting the same, or against any interest in the Common Areas, except as to the undivided interest therein appurtenant to the Unit of the Owner for whom such labor shall have been performed or such materials have been furnished. Each Owner shall indemnify and hold harmless each of the other Owners, the Declarant and the Association from and against liability or loss arising from the claim of any materialman's and mechanics' lien for labor performed or for materials furnished in work on such Owner's Unit against the Unit of another Owner, the Common Areas or any part thereof.

7. Contracts to Convey. A contract or other agreement for the sale of a Unit entered into prior to the filing for record of the Plans and this Master Deed in the land records of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas may legally describe such Unit in the manner set forth above and may indicate that the Plans and this Master Deed are to be recorded.

Copy

**ARTICLE IX**  
**RESTRICTIONS ON USE OF UNITS**

1. **Residential Purposes.** All Units, except for the Common Areas, shall be used only and exclusively for single family residential purposes.

2. **Plans.** Although there is no general requirement that the Units are constructed with uniformity as to style, color, or Plans, all Units shall be constructed in accordance with the following requirements; provided, however, variance may be obtained with written approval of the Board. The Plans for any Unit constructed after the Master Deed is filed must be approved by the Board.

A. **Exterior.** No Unit shall be constructed that has exposed or painted concrete or concrete blocks on the exterior, except for foundation concrete blocks as designated on the building plans for the construction of the Units. No such materials shall be utilized in constructing any fencing, barrier or retaining wall around the Unit or around any patio area adjacent to the Unit. Seventy-five percent (75%) of the exterior of each Unit shall be covered with brick or stone.

B. **Roof.** All Units shall be constructed with 8/12 pitch roofs, architectural shingles and gutters with leaf guards.

C. **Size.** The size of each Unit may vary, provided however, the minimum size of each Unit shall be 1,500 square feet.

D. **Parking.** All Units shall be constructed with a two-car garage and concrete drive.

E. **Mailbox.** The material used in the construction of each Unit's mailbox shall be brick.

F. **Landscape.** All Units shall be professionally landscaped, using sod and a minimum of three trees, and equipped with a sprinkler system. Landscaping must be completed within ninety (90) days of the date of the certificate of occupancy permit.

3. **Inoperative Vehicles.** No inoperative or unlicensed vehicles shall be permitted to remain in the driveway of any Unit for a period in excess of twenty-four (24) hours. No repair or restoration of vehicles shall be permitted on any Unit if such repairs are not completed within twenty-four (24) hours unless such repair or restoration work is performed within an enclosed garage. No disabled or inoperative vehicles shall be permitted upon a street except for such period of time as may be necessary for a wrecker to remove the disabled or inoperative vehicle.

4. **Street Parking.** No automobiles, trucks, motorcycles, boats, trailers or any type of vehicle may be parked at any time on a public street within the Property. All parking within the Property shall be limited to the use of the off-street parking areas as shown on the Plans or the paved driveways of the Units. No automobiles, trucks, motorcycles, boats, trailers or any type of vehicle may be parked off of the paved driveway of any Unit, except on rare occasions and in any case shall not be parked for a period of more than ten (10) days.

Copy

5. All Terrain Vehicles. All terrain vehicles may not use the streets of the Property or the Common Areas at any time.

6. Structures. No structure of a temporary nature, trailer, mobile home, manufactured house, tent, shack, barn or other outbuilding shall be erected, used or allowed on the Property or any of the Common Area at any time for use as a residence or for storage, either temporarily or permanently, unless prior written approval is granted by the Board.

7. Storage. All personal property or possessions on a Unit must be stored within the Unit or in areas designated for such purposes by the Board.

8. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Unit. Domestic Animals may be kept, provided that such pets are not raised, bred or kept for commercial purposes. Domestic Animals shall not be permitted to run at large at any time. Pet owners may walk Domestic Animals, provided such animals are kept on a leash under control of the pet's owner. The Board may determine that certain pets shall not be permitted, such as Pit Bulls, Rottweilers, Domestic Animals that have become aggressive or dangerous, wild animals and venomous animals. The Board may determine by majority vote if a particular animal is objectionable and require the owner of such animal to remove the animal promptly from the Property.

9. Burials. No dead animals shall be buried on any Unit or the Common Areas. Any such dead animal must be properly disposed of by an appropriate refuse disposal or rendering service.

10. Fences. No privacy fences of any kind shall be constructed on any Unit, except directly behind the structure of the Unit and within the boundary line of the Unit, as set forth on the Plans, to enclose the patio area. No chain link, wire or cyclone metal fence may be placed on any Unit. Areas enclosed by fencing shall be maintained by the Owner of such Unit.

11. Antennas. Pursuant to the provisions of 47 CFR § 1.4000, as amended, video dish antennas that are one meter (39.37 inches) or less in diameter and that are designed to receive direct broadcast satellite service, including direct-to-home satellite service; video antennas that are one meter (39.37 inches) or less in diameter or diagonal measurement and are designed to receive video programming services via Multichannel Multipoint Distribution Service (MMDS or wireless cable); and video antennas that are designed to receive local television broadcast signals, are permissible on any Unit. Video antennas may be mounted on masts, provided that such masts, inclusive of the antenna, are no higher than twelve (12) feet above the roofline of the Unit. All such video antennas must be placed so that the antenna is not visible from an adjoining Unit or any street, so that the antenna does not detract from the view from adjoining Units. Video dish antennas shall be placed no more than six (6) feet above ground level. If such placement unreasonably delays or prevents use of, unreasonably increases the cost of, or precludes the Owner from receiving an acceptable quality signal from the video antenna, such antenna shall be placed on the Unit in such manner as to minimize the visual impact created by such video antenna. Video antennas that are greater than one meter (39.37 inches) in diameter or diagonal measurement, antennas for AM/FM radio reception,

amateur ("ham") radio transmitting and receiving antennas, and antennas for reception of Internet service are prohibited. No Owner shall place any antenna on the Common Areas.

12. Mowing. All Units and the Limited Common Areas of each Unit shall be maintained in a neat and orderly manner so they will not detract from the Property. All grass and weeds shall be trimmed to a height that will appear neat and orderly. No grass or weeds on any Unit shall be permitted to be more than six (6) inches above ground level.

13. Subdividing. No Unit shall be subdivided or replatted, except as provided in Article XXII(9) of this Master Deed.

14. Clotheslines and Wood Piles. No clotheslines, drying yards or wood piles shall be permitted on any Unit or the Common Areas. All wood debris shall be bundled for removal by a refuse service or shall be removed by the Owner. No wood debris shall remain on a Unit for a period longer than one week. An Owner may keep firewood stacked in the patio area of the Unit for use in the Unit's woodburning fireplace.

15. Garbage and Refuse Disposal. Garbage, refuse and trash must be disposed of in enclosed receptacles. The design of the enclosures for such receptacles must be approved in writing by the Board. No Owner shall permit the accumulation of garbage, trash, litter or refuse on his Unit.

16. Commercial Activities. No Owner shall conduct or permit commercial enterprises of any kind or type upon his Unit.

17. Garage Sales. No garage sales, yard sales, antique sales, arts and crafts sales or consignment sales shall be allowed on any Unit or the Common Areas at any time without prior written approval of the Board.

18. Signs. No Person, except the Association, the Declarant or its designated representative shall erect or maintain upon any Unit or the Common Areas any permanent sign or advertisement, unless prior written approval is obtained from the Board. A temporary real estate sign advertising a Unit for sale or lease may be placed on a Unit, provided such sign does not exceed four (4) square feet in area, the sign is removed immediately after closing of the sale, and no more than one such sign is placed on the Unit. Declarant and its designated representative shall be permitted to erect such signs as they desire advertising the Units for sale until such time as all of the Units have initially been sold.

19. Drilling and Mining. No drilling, refining, quarrying or mining operations of any kind shall be permitted on any Unit or the Common Areas.

20. Noxious Activities. No noxious, criminal or offensive activity shall be permitted in or on any Unit or carried on anywhere on any property subject to this Master Deed, and nothing shall be done thereon that may be or become a nuisance or menace to the Property.

21. Solicitation. No door-to-door solicitation for any purpose shall be allowed within the Property by any individual, group, school, company, political party or other organization, including any charitable, religious, political or school organization.

Copy

22. Dumping. No vacant Unit or the Common Areas shall be used to dump or store, temporarily or permanently, any types of material or waste. The Owner of a vacant Unit shall keep the Unit in such condition so as not to detract from the Property.

23. Street Cuts. No street cuts shall be made by any Owner or his representative or agent at any time. The Declarant, the Association or a public utility provider shall be the only entities that shall be allowed to make a street cut within the Property.

24. Use As Common Areas. Nothing in this Master Deed shall prevent any Unit or any other area of the Property from being used as Common Areas for the benefit of the Owners.

25. In-Home Occupation. No in-home occupation that requires the presence of visitors or customers for the conduct of business shall be allowed on any Unit. No commercial manufacturing or construction activity shall be allowed on any Unit.

26. Gardens. No vegetable gardens shall be placed on any Unit or the Common Areas by any Owner without prior written approval of the Board. Nothing herein shall prevent an Owner from engaging in gardening using containers or pots on the patio of a Unit, provided that such container gardens are kept in a husband like manner and are used to provide produce only for the occupants of the Unit. Any garden must be maintained by the Owner.

27. Carports. No carport or open-sided covered parking shall be allowed on any Unit or covering the paved driveway by any Unit.

28. Timesharing. No Owner of any Unit shall offer or sell any interest in such Unit under a "timesharing" or "interval ownership" plan or any similar plan.

29. Leasing. An Owner shall have the right to lease the Owner's Unit, subject to the condition that the Owner shall be liable for any violation of this Master Deed or the rules and regulations of the Association committed by Owner's tenant, without prejudice to the Owner's right to collect, from the tenant, any sums paid by the Owner on behalf of the tenant. Any lease of a Unit shall be in writing and must be subject to this Master Deed and the rules and regulations of the Association.

30. Limited Access. There shall be no access to any Unit on the perimeter of the Property except from designated streets or roads within the Property as set forth on the Plans.

#### **ARTICLE X** **INSURANCE**

The insurance, other than title insurance, that shall be carried upon the Common Areas and the Units shall be governed by the following provisions:

1. Authority to Purchase. All insurance policies relating to the Property, but not including insurance covering the interior of Units, shall be purchased by the Association. Provisions shall be made for the issuance of mortgagee endorsements and memoranda of insurance to the Mortgagees. Such policies shall provide that payments by the insurer for losses shall be made to the

Copy

Insurance Trustee designated below and all policies and endorsements shall be deposited with the Insurance Trustee. The Association, the Board and the Declarant shall not be liable for failure to obtain any coverage required by this Article or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverage from reputable insurance companies or if such coverage is available only at demonstrably unreasonable cost.

2. Notice to Owners. The Association shall furnish to each Owner written notice of materially adverse changes in, cancellation or termination of, insurance coverages obtained on behalf of the Association under this Article. Such notice, which may be issued in the form of a subpolicy relating to a master policy, if the Association obtains a master policy, shall specify the insurance coverage in effect on the Owner's Unit.

3. Insurance Trustee. All insurance policies purchased by the Association shall be for the benefit of the Association, the Owners and the Mortgagees, as their interests may appear, and shall provide that all proceeds covering property losses shall be paid to \_\_\_\_\_, as Trustee, or to such other entity as may be designated as insurance trustee by the Board (the "Insurance Trustee"). The Insurance Trustee shall not be liable for payment of the premiums nor for the renewal or sufficiency of policies nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as they are paid and hold the proceeds in trust for the purposes elsewhere stated herein and for the benefit of the Owners and the Mortgagees.

4. Payment of Insurance Premiums.

A. The cost of the premiums for purchasing insurance shall be paid by the Association through the Monthly Assessments. Payment to the Association from each Owner shall be prorata, based on such Owner's proportionate interest in the Common Areas and Common Expenses as set forth in Article III and shall be deemed a Common Expense, except the Board shall make appropriate allocations of the cost of any insurance carried by the Association for the benefit of a particular Owner.

B. For any area within the Property, whether Common Areas or one or more Units, damaged or destroyed and covered by an insurance claim submitted on behalf of the Association, the deductible amount, if any, on any insurance policy purchased by the Association may be treated as a Common Expense payable from Monthly, Annual, or Emergency Assessments allocable to all of the Units or to only some of the Units, if the claims or damages arise from the negligence of particular Owners, or if the repairs benefit only particular Owners, or as an item to be paid from the Reserve Fund. The Association may enforce payment of any amount due from an Owner toward the deductible on any insurance policy pursuant to Article XV of this Master Deed. The maximum deductible amount shall be the lesser of Ten Thousand Dollars (\$10,000.00) or one percent (1.00%) of the face amount of the insurance policy.

C. Each Owner shall pay his prorata share of the insurance premiums billed to it by the Association not later than fifteen (15) days before the due date for payment of such premium to the insurance company. If any Owner fails to pay any such Assessment or premium notice, the Association may advance payment on behalf of the Owner. Any such

Copy

payment made by the Association shall bear interest at the highest rate allowed by law until paid in full and shall constitute a lien in favor of the Association against the Owner's Unit.

5. Proceeds. Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the Owners in the following manner:

A. All expenses of the Insurance Trustee shall be paid first.

B. The remaining proceeds shall be paid to defray the costs of repair or reconstruction as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the Association for the benefit of the Owners.

C. In making a distribution to or for Owners and the Mortgagees, the Insurance Trustee may rely upon a certificate of the Board made by the Chairman and Secretary as to the Persons to whom such payments are to be made and the amounts thereof.

D. If the proceeds of insurance are insufficient to cover the cost of reconstruction, the Owners directly affected shall bear such excess expenses in proportion to the value of their respective Units as determined in Article II.

E. The Association is irrevocably appointed agent for each Owner and for each Mortgagee or lienholder upon a Unit and for each owner of any other interest in the Property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver a release upon the payment of claims.

6. Declarant. As long as Declarant owns any Unit, Declarant shall be protected by all such insurance policies in the same manner as any Owner. The coverage provided to Declarant under the insurance policies obtained pursuant to this Article shall not be deemed to protect or be for the benefit of any contractor or subcontractor engaged by Declarant, nor shall such coverage be deemed to protect Declarant for, or waive any rights with respect to, warranty claims against Declarant as developer of the Property.

7. General Insurance Provisions. Any insurance coverage obtained by the Association under the provisions of this Article shall be subject to the following provisions and limitations:

A. The named insured under all insurance policies shall include Declarant, until all Units have been conveyed, the Association, as attorney-in-fact for the use and benefit of the Owners and as agent for the Mortgagees, and the Insurance Trustee, who shall have exclusive authority to negotiate losses and receive payment under such insurance policies. The "loss payable" clause should designate the Association or the Insurance Trustee, who shall act as trustee for each Owner and Mortgagee.

B. Each Owner shall be an insured Person with respect to liability arising out of the Owner's interest in the Common Areas and membership in the Association.



Copy

C. In no event shall the insurance coverage obtained and maintained pursuant to this Article be brought into contribution with insurance purchased by the Owners or the Mortgagees.

D. The insurance policies shall provide that coverage shall not be prejudiced by (i) an act or neglect of any Owner, including Owner's family members, tenants, servants, agents, invitees and guests, when such act or neglect is not within the control of the Association; (ii) any act, neglect or failure of the Declarant or the Association to comply with any warranty or condition with regard to any portion of the Property over which the Declarant or the Association has no control; or (iii) conduct of any kind on the part of an Owner, including Owner's family members, tenants, servants, agents, invitees and guests, or any officer, director, employee or agent of the Declarant or the Association, without prior demand to the Association and a reasonable opportunity to cure the matter.

E. The insurance policies shall contain the standard mortgagee clause commonly accepted by private institutional mortgage investors, and provide that coverage may not be canceled in the middle or at the end of any policy year or other period of coverage, or be substantially modified or reduced, including cancellation for nonpayment of premiums, without at least thirty (30) days prior written notice mailed to the Association, each Owner, and each Mortgagee to whom a certificate or memorandum of insurance has been issued.

F. The insurance policies shall contain a waiver of subrogation by the insurer as to any and all claims against Declarant, the Board, the Association and any Owner, or their respective family members, tenants, servants, employees or agents, and of any defenses based upon coinsurance.

G. The insurance policies shall provide that any "no other insurance" clause shall expressly exclude individual Owner's policies from its operation so that the property damage policies purchased by the Association shall be deemed primary coverage, and any individual Owner's policies shall be deemed excess coverage.

8. Property Damage Insurance. The Association shall obtain and maintain in full force and effect property damage insurance on all insurable Improvements located on or constituting part of the Property, including, without limitation, the Common Areas, the Units, fixtures, equipment, and other personal property installed in the Units by Declarant and replacements thereof, together with all fixtures, equipment, and personal property and supplies of the Association, and covering the interests of the Owners and the Mortgagees, as their interests may appear, but not including furniture, clothing, personal possessions, wall coverings, improvements, additions, and other personal property owned, supplied, or installed by the Owners. Such insurance shall be carried in an amount equal to full replacement value (one hundred percent (100%) of the current "replacement cost" exclusive of land, foundation, excavation, depreciation on personal property, and other items normally excluded from coverage), and shall include a replacement cost endorsement. Such insurance, at a minimum, shall include protection against the following:

A. Loss or damage caused by fire and all other hazards covered by the standard extended coverage endorsement with the standard "all-risk" endorsement, including, but not

limited to, sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm and water damage; and

B. Such other risks as shall customarily be covered with respect to developments similar in construction, location and use.

9. Provisions Common to Property Damage Insurance. In contracting for the policy or policies of property damage insurance, the Board shall make reasonable efforts to secure coverage, if the Board deems such coverage advisable, which provides the following endorsements, or equivalent: (a) "cost of demolition"; (b) "contingent liability from operation of building laws or codes" (building ordinance or law endorsement); (c) "increased cost of construction"; (d) "agreed amount" or elimination of coinsurance clause; and (e) "inflation guard." Prior to obtaining any policy of property damage insurance, and at such other intervals as the Board may deem advisable, the Board shall obtain an appraisal of the then current replacement cost of all property, exclusive of land, foundation, excavation, depreciation on personal property, and other items normally excluded from coverage, subject to insurance carried by the Association, without deduction for depreciation, for the purpose of determining the amount of property damage insurance to be secured.

10. Certificate. A certificate evidencing coverage under the policy of property damage insurance, together with proof of payment of premiums and any notice issued under Section 2 of this Article, shall be delivered by the insurer to the Association and upon request, to any Owner or Mortgagee. The Mortgagee of a Unit shall also be entitled to receive, upon request, a certificate confirming the renewal of any existing property damage insurance at least ten (10) days before the expiration of the then current policy, and to receive notice of any event giving rise to a claim under such policy arising from damage to such Unit.

11. Liability Insurance. The Association shall obtain and maintain in full force and effect commercial general liability insurance, including bodily injury, libel, slander, false arrest, and invasion of privacy coverage, with such limits as the Board may from time to time determine, insuring each member of the Board, the Association, and the employees and agents of the Association against any liability to the public or the Owners and the Owner's family members, guests, invitees, tenants, servants, agents, and employees, arising out of or incident to the ownership, existence, operation, management, maintenance, or use of the Common Areas and any other areas under the control of the Association. Declarant shall be included as an additional named insured in Declarant's capacity as an Owner and member of the Board. The Owners shall be included as additional insureds, but only for claims and liabilities arising in connection with the ownership, existence, use or management of the Common Areas.

12. Liability Policy Coverage. The comprehensive policy of public liability insurance shall include the following provisions:

A. Coverage for contractual liability, liability for non-owned and hired automobiles, and, if applicable, bailee's liability, garagekeeper's liability, host liquor liability, employer's liability, and such other risks as shall customarily be covered with respect to developments similar in construction, location, and use.

Copy

B. A cross-liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to an action against another insured.

C. A "severability of interest" endorsement which shall preclude the insurer from denying liability coverage to an Owner because of the negligent acts of the Association or another Owner.

D. The Board shall review the coverage limits at least once every three (3) years and shall carry such amounts of insurance usually required by private institutional mortgage lenders on similar developments. Such coverage shall be in a minimum amount of One Million (\$1,000,000.00) for all claims for bodily injury or property damage arising out of each occurrence. Reasonable amounts of "umbrella" liability insurance in excess of the primary limits shall also be obtained in an amount not less than Two Million Dollars (\$2,000,000.00).

E. At the election of the Board, the Board may also contract for commercial general liability insurance covering each Owner with respect to the ownership and use of the Units, as necessary or convenient to allow the Board and the Association to perform their duties with respect to the Common Areas. Notice of such coverage shall be given to the Owners as necessary to keep the Owners informed.

13. Fidelity Insurance. The Association shall maintain fidelity insurance to protect against dishonest acts on the part of its officers, directors, trustees, employees and all others who handle or are responsible for handling the funds belonging to or administered by the Association, regardless of whether such Person receives compensation for services. Such insurance shall contain waivers by the issuers of all defenses based upon the exclusion of Persons serving without compensation from the definition of "employees." Such insurance shall be in an amount not less than, in the aggregate, three (3) months current Monthly Assessments plus reserves on all Units, as calculated from the current budget of the Association. If responsibility for handling funds is delegated to a management company pursuant to Article XXI, such insurance shall be obtained by the management company for its officers, employees, and agents, and shall contain the same coverages that are provided under the fidelity insurance obtained by the Association.

14. Officers and Directors Personal Liability Insurance. To the extent such coverage may be obtained at reasonable cost, appropriate officer's and director's personal liability insurance shall be maintained by the Association to protect the officers and directors of the Association from personal liability in relation to their duties and responsibilities in acting as such officers and directors.

15. Workers' Compensation. The Association shall obtain workers' compensation insurance coverage sufficient to meet the requirements of Arkansas law.

16. Other Insurance. The Association may obtain such other insurance against such other insurable risks which the Board shall determine to be necessary or desirable.

Copy

17. Insurance Obtained by Owners. It shall be the responsibility of each Owner, at such Owner's expense, to maintain property damage insurance on each Owner's furniture, clothing, personal possessions, wall coverings, improvements, additions, and other personal property owned, supplied or installed by such Owner. 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 and at the Owner's expense, shall deem to be desirable. No such insurance coverage obtained by the Owner shall operate to decrease the amount which the Association, on behalf of all Owners, may realize under any policy maintained by the Association, otherwise affect any insurance coverage obtained by the Association, or cause the diminution or termination of such 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 a Delinquent Assessment, and the Association may impose and foreclose a lien for the payment due. Any insurance obtained by an Owner shall include a provision waiving the insurance company's right of subrogation against the Declarant, the Association and the other Owners. An Owner who purchases additional insurance coverage for the Owner's Unit, other than coverage for the Owner's personal property, shall file a copy of such policy with the Association within thirty (30) days after purchase of the coverage such that potential conflicts with any insurance policy carried by the Association may be eliminated.

**ARTICLE XI**  
**DAMAGE TO OR DESTRUCTION OF IMPROVEMENTS**

1. Damage to Common Areas. Damage to or destruction of any or all of the Common Areas shall be promptly repaired and restored by the Board using the proceeds of insurance received for that purpose. Any reconstruction or repair must be substantially in accordance with the Plans for the original Improvements.

2. Damage to Units. Damage to or destruction of any Unit shall be promptly repaired and restored by the Board using the proceeds of insurance received for that purpose, subject to the provisions of Section 5, Article IX of this Master Deed.

**ARTICLE XII**  
**NEGLIGENCE OF OWNER**

An Owner shall be liable for the expense of any maintenance, repair, or replacement rendered necessary by his negligence or by that of its family members, guests, invitees, servants, agents, tenants, or employees, whether to a Unit or any of the Common Areas, but only to the extent that such expenses are not met by the proceeds of insurance carried by the Association. An Owner shall pay the Association the amount of any increase in its insurance premiums occasioned by use, misuse, occupancy or abandonment of a Unit or its appurtenances by an Owner.

Copy

**ARTICLE XIII**  
**MEMBERSHIP IN THE ASSOCIATION**

1. **Qualifications.** Each Owner shall be a member of the Association and shall be entitled to representation in the Association in proportion to such Owner's interest in the Common Areas. If a Unit is owned by more than one Owner, all such Owners shall be members of the Association; provided, however, that for the purpose of representation of such Unit with regard to the affairs of the Association and the voting rights of the members of the Association, such Unit shall be represented by one Owner designated in writing by a majority of the Owners of such Unit to the Board and only the Person so designated shall have the right to vote for such Unit.

2. **Transfer of Membership.** The Association membership of each Owner shall be an appurtenant right to the Unit giving rise to such membership and shall not be assigned, transferred, pledged, conveyed, or alienated in any way except upon the transfer of fee simple title to the Unit and then only to the transferee of title to the Unit. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Unit shall operate automatically to transfer the membership in the Association appurtenant thereto to the new Owner.

**ARTICLE XIV**  
**VOTING RIGHTS**

1. **Votes.** There shall be a total of 100 votes divided among the Owners on the basis that each ownership interest in the Common Areas shall be entitled to one vote. No fractional voting shall be allowed.

2. **Required Percentage of Vote.** Whenever this Master Deed or the By-Laws require the vote, assent, or presence of a stated percentage of Owners with regard to the taking of any action or any other matter whatsoever, the requisite number of votes to constitute such stated percentage shall be the votes of Owners whose aggregate percentage interest in the Common Areas totals such percentage.

3. **Joint Owner Disputes.** The vote of each Unit may be cast only as a Unit. In the event that joint owners of a Unit are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. No Owner other than the Person designated to the Board may vote for a Unit and when such Person casts a vote representing a certain Unit, it will thereafter be conclusively presumed for all purposes that such Person was acting with the authority and consent of all other Owners of the same Unit. All voting rights shall be exercised by Owners and no lessee, sublessee, or other Person shall be entitled to exercise voting rights notwithstanding lease provisions to the contrary.

**ARTICLE XV**  
**DUTIES AND POWERS OF THE ASSOCIATION**

1. **Administration of Property.** The Owners and each of them, together with all parties bound by this Master Deed, covenant and agree that the administration of the Property shall be in accordance with the provisions of this Master Deed, By-Laws, and such rules and regulations as may

Copy

be adopted by the Board, and the amendments, changes, and modifications thereto as may come into effect from time to time. In the event of any inconsistency between the provisions of this Master Deed and the provisions of the By-Laws, or rules and regulations of the Association, the provisions of this Master Deed shall prevail.

2. Authority and Duties of Board. The Board shall have the following powers and duties:

A. The Board shall acquire and pay out of the Assessments levied and collected in accordance herewith, for all necessary utility and other services and supplies for the Common Areas, including payment for an annual termite contract.

B. The Board shall purchase such insurance policies for the streets of the Units and the Common Areas as required by this Master Deed and shall levy the cost thereof through the Assessments.

C. The Association shall maintain, repair and replace at the Association's expense:

i. All portions of a Unit, except interior surfaces, which portions shall include, but not be limited to, painting, repairs, replacements and maintenance, excluding the payment of any real estate taxes and special assessments on a Unit and the personal property owned by the Owner located in or on Unit.

ii. Replacement and care of roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, flowers, grass, walks and other exterior improvements. Such exterior maintenance shall not include any glass surfaces.

iii. All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services that are contained in or on the portions of a Unit maintained by the Association, excluding any such repairs and maintenance applicable to the interior of the Unit.

D. The Association shall maintain or cause the Common Areas and the entrance, private streets, landscaping, Improvements, facilities and structures thereof to be maintained and kept in a good state of repair and acquire for the Association and pay from Assessments for services, furnishings, equipment, maintenance, painting and repair as it may determine are necessary in order to keep and at all times maintain the Common Areas in a good and sanitary state of condition and repair.

E. The Association shall mow and trim the area between each Unit and the street fronting each such Unit.

F. Except as to the taxes, levies or assessments levied separately against an individual Unit or the Owner thereof, the Association shall pay all taxes, real and personal, assessments, bonds and levies that are or would become a lien on the Property.

G. The Board may, at its option, employ and discharge a manager, independent contractors and such other employees as it deems necessary and prescribe their duties and enter into contracts and agreements, all for the purpose of providing for the performance of the business, powers, duties and obligations of the Board. Such manager, if any, and all agents and employees shall have the right of ingress and egress over and access to such portions of the Property, including the Units, as may be necessary in order for them to perform their obligations.

H. The Board, at any time, and from time to time, may establish, in accordance with the By-Laws, such uniform rules and regulations as the Board may deem reasonable in connection with the use, occupancy and maintenance of the Property, Units and the Common Areas by Owners and their family members, tenants, guests, invitees, agents, servants and employees, and the conduct of such Persons with respect to vehicles, parking and other activities that, if not so regulated, might detract from the appearance of the Property or be offensive to or cause inconvenience, noise or damage to Persons using the Property. The Board shall send a copy of such rules and regulations, together with amendments and additions thereto, to each Owner upon receiving written notice that such Person has become an Owner.

I. The Board shall be responsible for payment of fees associated with its deposit accounts, collection of dues and preparation of tax returns.

J. The Board shall adopt an annual budget and levy Assessments against the Owners and enforce payment thereof, all in the manner and subject to limitations set forth in this Master Deed and as permitted by the Arkansas Horizontal Property Law.

K. The Board shall maintain books and records relating to the management and operation of the Property. Such books and records shall be subject to inspection and copying, during normal business hours, by any Owner and by any Mortgagee.

L. Upon request received from a Mortgagee on any Unit, the Board shall notify the Mortgagee of any default thereafter occurring in the performance by the Owner of the Unit burdened by such mortgage of any obligation thereunder or under the By-Laws or rules and regulations of the Board, which default is not cured within sixty (60) days of the date of default. Such notice shall be in writing and shall be addressed to the Mortgagee at the address specified in the request submitted by such Mortgagee.

M. The Board shall have the power to perform such other acts, whether expressly authorized by the Master Deed or the By-Laws, as may be reasonably necessary to enforce any of the provisions of the Master Deed, the By-Laws or the rules and regulations duly adopted by the Board or to carry out and perform its powers and responsibilities.

3. Exculpability of Board and Officers. Neither the Board, as a body, nor any individual member thereof nor any officer shall be personally liable to any Owner, Mortgagee or any other Person for any action or lack of action arising out of the execution of his or her office or for negligence while acting in such official capacity except as set forth herein. Each Owner shall be

Copy

bound by the good faith actions of the Board and the officers in the execution of the duties of said directors and officers. Unless acting in bad faith, no director or officer shall be liable to any Owner, Mortgagee or any other Person for misfeasance or malfeasance in office or for negligence. The representation and defense of any officer or director against claims asserted against such officer or director arising out of or in connection with the discharge of official duties as such shall be a Common Expense unless a final judgment is entered in a Court of competent jurisdiction determining that said officer or director acted in bad faith.

## ARTICLE XVI ASSESSMENTS

1. Creation of Lien and Personal Obligation of Assessments. Each Owner, by acceptance of a deed to a Unit, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Board: (1) An Initial Assessment, (2) Monthly Assessments and charges, (3) Emergency Assessments and (4) Annual Assessments, such Assessments to be fixed, established and collected from time to time as hereinafter provided. The Assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge and a lien on the Unit against which each such Assessment is made, and all appurtenances thereto, which lien is created and shall be enforced in accordance with the provisions of this Master Deed. Each such Assessment, and all other Assessments levied in accordance with this Master Deed, together with late charges, interest, costs, penalties and reasonable attorneys fees, as provided for by this Master Deed, shall also be a lien and the joint and several personal obligation of each Person who was an Owner of such Unit at the time when such Assessment accrued.

2. Purpose of Assessments. The Assessments levied by the Board shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the Owners, their family members, tenants, agents, servants, guests, invitees, and employees, and in particular shall be used for the purpose of improving, protecting, operating, repairing, and maintaining the Common Areas, the Units, and the facilities, improvements, landscaping, and structures located thereon, and providing for the acquisition and maintenance of property, services and facilities devoted to this purpose and directly related to the use and enjoyment of the Property. Assessments shall be made prorata based on each Owner's interest in the Common Areas and as set forth herein.

3. Initial Assessment. Upon purchase of each Unit, there shall be an assessment of Five Hundred Dollars (\$500.00) paid by the buyer at closing to Bellafont Gardens POA Account.

4. Regular Assessments.

A. Monthly Assessment. As soon as is reasonably practicable after the election of the first Board, the Board shall set the Assessments to be assessed for the initial fiscal year against each Unit for the purposes herein specified (the "Monthly Assessments"). Monthly Assessments shall be for the period running from the first date of a calendar month to and including the last day of such calendar month. Such Assessments for the period ending on the last day of any calendar month shall be due and payable by the Owners on the fifth day of the following month. The total of such Assessments for all Units for each fiscal year shall



Copy

total (i) the estimated expenses of the Board, inclusive of the cost of insurance on the Units, in carrying out the obligations described herein for such fiscal year; plus (ii) an amount, to be determined by the Board, to be set aside during the fiscal year to provide for a reserve fund for the replacement and additions to the Common Areas (the "Reserve Fund Requirement") and an amount to be determined by the Board to be set aside as a reserve for the maintenance of the Common Areas (the "Maintenance Fund Requirement").

B. Fiscal Year. The initial fiscal year shall run from the date on which the Master Deed is filed with the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, to the next succeeding December 31. The succeeding fiscal years of the Association shall run from January 1 through December 31.

C. Increase in Monthly Assessments. In December of each year, the Board shall meet and determine the Monthly Assessment for the succeeding fiscal year. The Monthly Assessment may be increased each fiscal year prior to, but effective as of, the beginning of such fiscal year, by the Board without a vote of the Owners. Such increase in the amount of Monthly Assessments shall be limited to an increase of ten percent (10%) of the amount of the Monthly Assessment for the prior fiscal year. If the Board determines that an increase in an amount more than ten percent (10%) of the Monthly Assessments for the prior fiscal year is necessary to satisfy the needs of the Association, the Board shall submit such increase to a vote of the Owners. Such increase shall require approval of two-thirds (2/3) of the Owners and the approval, in writing, of at least fifty-one percent (51%) of the Mortgagees.

D. Certificate of Payment. The Board shall, upon demand, furnish to any Owner, Mortgagee or prospective purchaser of any Unit, a certificate in writing signed by an officer of the Board setting forth whether the Assessments on the specified Unit have been paid and the amount of delinquency, if any. A reasonable charge may be made by the Board for the issuance of such certificates. Such certificates shall be conclusive evidence of payment of any Assessment therein stated to have been paid, subject to collection in the case of recent payments by check or draft.

E. Annual Assessment. The Board shall make such Annual Assessments as are necessary to provide for the payment of expenses which are not covered by Emergency Assessments or the Monthly Assessments (the "Annual Assessments"). Any such Annual Assessment shall be payable upon demand. The Board shall set the Annual Assessments to be assessed for the initial fiscal year against each Unit for the purposes specified herein, which amount shall not be for more than Two Hundred Fifty Dollars (\$250.00). Any increase in the amount of Annual Assessments shall be limited to an increase of ten percent (10%) of the amount of the Annual Assessments for the prior fiscal year. If the Board determines that an increase in an amount more than ten percent (10%) of the Annual Assessment for the prior fiscal year is necessary to satisfy the needs of the Association, the Board shall submit such increase to a vote of the Owners. Such increase shall require approval of two-thirds (2/3) of the Owners and the approval, in writing, of at least fifty-one (51%) of the Mortgagees.

Copy

5. Payment of Assessments. Each payment of Monthly and Emergency Assessments made by an Owner shall first be applied to that portion of such Unit's Assessments allocable to the payment of Common Expenses and then to the Maintenance Fund Requirement, and the remainder of such payment shall be applied to that portion of such Unit's Assessments allocable to the Reserve Fund Requirement.

6. Maintenance Fund. All collected Assessments shall be properly deposited in a commercial bank account in a bank to be selected by the Board. The Board shall have control of said account and shall be responsible to the Owners for the maintenance of accurate records thereof at all times. The funds in such account may be expended only for expenses incurred for the maintenance or repair of the Common Areas and for Common Expenses.

7. Reserve Fund. All collected Assessments allocable to the Reserve Fund Requirement shall be properly deposited in a commercial banking account at such bank as may be selected by the Board. The Board shall have control over such account and shall be responsible to the Owners for the maintenance of accurate records thereof at all times. The funds in such account may be expended only for expenses incurred for the construction, purchase or replacement of Improvements upon the Common Areas, including street repair.

8. Assessment by City. In the event that the streets on the Property are not properly maintained by the Association, the City of Fayetteville, Arkansas, shall have the right, but shall not be required, to maintain such streets on the Property and to charge the cost of such maintenance to the Owners on a prorata basis according to the assessed valuation of each Unit for ad valorem tax purposes. Such cost shall be a lien on the Units and the Common Areas for such cost of maintenance.

9. Emergency Assessments. In the event that the Board shall determine that its budget for any current month is or will become inadequate to meet all expenses for any reason, including nonpayment of any Owner's Assessment on a current basis, it shall immediately determine the appropriate amount of such inadequacy for such month and may levy an Emergency Assessment against all Owners for the amount required to meet all such expenses on a current basis (the "Emergency Assessments"). Emergency Assessments levied in accordance with this section shall be due and payable within ten (10) days of written notice thereof by the Board.

10. Declarant Liability. Declarant shall not be liable for payment of Monthly, Annual or Emergency Assessments as set by the Board for Units owned by Declarant. Declarant shall make an in lieu payment to the Association as mutually agreed to by Declarant and the Board in an amount sufficient to meet the needs of the Association remaining after payment of the Assessments by the Owners. In no event shall the payment made by Declarant be in an amount greater than the sum of Monthly, Annual and Emergency Assessments for a Unit multiplied by the number of Units owned by Declarant.

11. Non-Payment of Assessments; Lien Rights; Remedies. Every Owner is deemed to covenant and agree to pay the Assessments provided in this Master Deed and further agrees to the enforcement of such Assessments in the manner provided for in this Master Deed and the laws of Arkansas.

Copy

A. Delinquency. Any Assessment levied by the Board which is not paid when due shall become delinquent on the date on which such Assessment is due ("Delinquent Assessment"). A late charge of ten percent (10%) for each Delinquent Assessment shall be payable with respect to such Assessment not paid when due, and the Board, its attorney or other authorized representative may, at its option, at any time after such period and in addition to other remedies herein or by law or in equity provided, enforce the obligation to pay Assessments in any manner provided by law or in equity and, without limiting the generality of the foregoing, by any or all of the following procedures:

i. Enforcement by Suit. The Board may cause a suit to be commenced and maintained in the name of the Association against any Owner or Owners, or any of them, delinquent in the payment of Assessments. Any judgment rendered in any such action shall include the amount of the Delinquent Assessment, together with late charges and interest thereon at the maximum lawful rate of interest chargeable on contracts from and after the date of delinquency, as provided for by this Master Deed, court costs and reasonable attorneys' fees in such amounts as the court may award. Suit to recover a money judgment for Delinquent Assessments shall be maintainable by the Association, or its authorized agent, without foreclosing or waiving the lien hereinafter described and established.

ii. Enforcement of Lien. Any Assessment which remains unpaid on the date on which such Assessment is due shall be a lien on the Unit for which such Assessment is made and on all appurtenances thereto. Such lien may be foreclosed by a suit instituted by the Association, its attorney or duly authorized agent. The Association, or its duly authorized agent, shall have the power to bid at the foreclosure sale and to acquire, hold, lease, mortgage, and convey the Unit acquired at such sale. Provided, however, in any such foreclosure sale the Association may not bid an amount in excess of any judgment rendered in its favor in such foreclosure action and satisfiable out of the proceeds of such sale.

B. Additional Costs Secured by Lien. In the event the lien described above is foreclosed, reasonable attorneys' fees as the court may award, and court costs, title insurance premiums, interest on all sums due at the maximum lawful rate of interest chargeable on contracts from the date of delinquency, and all other costs and expenses shall be allowed to the Association.

C. Rights of Board. Each Owner hereby vests in and delegates to the Board or its duly authorized representative the right and power to bring all actions at law or equity against any Owner or Owners for the collection of Delinquent Assessments in accordance herewith.

D. Purchase at Foreclosure Sale. Any purchaser of a Unit at a foreclosure sale pursuant to an action to foreclose the lien herein provided shall take title to such Unit subject to all the terms, provisions and restrictions of this Master Deed. There shall be a lien on the Unit of the purchaser which may be foreclosed in accordance with this Master Deed and which shall secure all Assessments which become due after the date of such sale. For the purposes of this section, a sale of a Unit shall occur on the date any judicial sale is held.

Copy

**ARTICLE XVII**  
**RIGHTS AND OBLIGATIONS OF OWNERS AS TO**  
**THE COMMON AREAS AND COMMON EXPENSES**

1. Owners' Easement of Enjoyment. Every Owner and its family members, tenants, agents, servants, guests, invitees, and employees, to the extent permitted by such Owner, shall have a non-exclusive easement of access to, use and enjoyment of, and ingress and egress through, the Common Areas, and such easements shall be appurtenant to and shall pass with the title to every Unit subject to the following provisions:

A. Such easements shall be subject to the right conferred by this Master Deed of the Board to establish uniform rules and regulations concerning the use of the Common Areas.

B. Such easements shall be subject to the right of Declarant, its agents and representatives, to the non-exclusive use of the Common Areas and the facilities thereof, for display and exhibit purposes in connection with the sale of Units, which right Declarant hereby reserves.

2. Limited Common Areas. Subject to the provisions of this Master Deed, every Owner shall have the exclusive right to use and enjoy the Limited Common Areas appurtenant to such Owner's Unit.

3. Waiver of Use. An Owner may not waive or otherwise escape liability for the Assessments established by this Master Deed or otherwise duly and properly levied by the Board, by non-use of the Common Areas and the facilities thereon or any part thereof, or by abandonment of a Unit.

4. Changes to Units. The Owners may decorate the interiors of their Units in any manner they see fit. No Owner shall cause any improvements or changes to be made to the exterior of any Unit, including replacement of roofing, painting or other decoration, the installation of awnings, shutters, electrical wiring or other things that might protrude through or be attached to the surface of any exterior walls of any Unit without the express written consent of the Board. Each Owner shall bear the cost of and be responsible for the upkeep and maintenance of any and all air conditioning and heating units, mechanical, plumbing, electrical, windows, doors, patio surfaces, sidewalk surfaces between the driveway and the front door, fencing, interior walls, ceiling and floor surfaces, and fixtures in or on such Owner's Unit.

5. Common Expenses. Each Owner is liable for and bound to contribute prorata in the percentages of his ownership of the Common Areas toward the expenses of administration, maintenance and repair, insurance and real property taxes of the Common Areas and other Common Expenses set forth herein or in the By-Laws.

6. Title to the Common Areas. Fee simple title to all Common Areas shall be vested in the Association. Such fee simple title may be subject to mortgages.

Copy

7. Disclaimer of Liability. Each Owner shall be bound by the rules and regulations governing the use of the Common Areas as promulgated by the Board and acknowledges that the Owner, members of Owner's family, tenants, agents, servants, guests, invitees and employees, shall use the Common Areas according to such rules. Each Owner shall indemnify and hold the Association and Declarant harmless from any claims or losses arising from the use of the Common Areas by the Owner, members of Owner's family, tenants, agents, servants, guests, invitees or employees. Each Owner shall be responsible for damages to the Common Areas committed by the Owner, members of Owner's family, tenants, agents, servants, guests, invitees, or employees, and such Owner shall reimburse the Association for any such damages upon demand by the Association or the Board.

**ARTICLE XVIII**  
**EASEMENTS**

1. Easements of Record. The Property will be subject to all easements of record or of use as of the date of recordation of this Master Deed.

2. Utilities. Declarant reserves unto itself, its successors and assigns and other agents, including the Association and the Owners, an easement in, upon, through, and over the Common Areas, the Limited Common Areas, and, to the extent necessary in, upon, and through the Units conveyed to the Owners, for the purpose of installation, maintenance, repair and replacement of all security devices, sewer, water, electricity, gas, television, telephone, heating, cooling, lines, pipes, mains, conduits, ducts, poles, transformers and any and all other equipment, machinery, or fixtures necessary or incidental to the properly functioning of any utility, common system, or other items serving the Property.

3. Encroachments. Declarant, for itself, its successors and assigns, hereby declares that every Owner shall have a perpetual easement for the continuance of any encroachment by his Unit on any adjoining Unit or on any of the Common Areas now existing as a result of initial construction of or on a Unit or which may come into existence hereafter as a result of a new Unit or as a result of the reconstruction of the Unit after damage by fire or other casualty or as a result of condemnation or eminent domain proceedings, such that any such encroachment may remain undisturbed so long as any Unit stands.

4. Development Easement. Declarant hereby reserves the irrevocable right to enter into, upon, over or under any Unit as may be reasonably necessary for the Declarant or its agents to complete any Improvements to a Unit or to service any Unit thereof.

5. Maintenance Easement. Declarant hereby reserves, and grants to the Association, the Board, and its officers, agents, employees, and assigns, an easement upon, across, over, in, and under the Property and the right to make such use of the Property as may be necessary or appropriate to make emergency repairs, or to perform the duties and functions for which they are obligated or permitted to perform, including the right to enter upon any Unit for the purpose of performing maintenance of the Common Areas.

Copy

6. Drainage Easement. Declarant hereby reserves and grants to the Association, the Board and its officers, agents, employees and assigns an easement to enter on, across, over, in and under any portion of the Property for the purpose of modifying the grade of any drainage channels on the Property to improve the drainage of water. Declarant further reserves the right to use or delegate the use of any irrigation ditches or water impoundments existing on the Property, and Declarant reserves for itself and its successors and assigns the right to construct, access and maintain additional irrigation ditches, irrigation lines and water impoundments on the Property for the maintenance of the Common Areas.

7. Municipal Access Easement. Declarant hereby grants a general easement to all police, sheriff, fire protection, ambulance, other emergency agencies or Persons, sanitation service, water and sewer service and other personnel of the City of Fayetteville, Arkansas to enter upon the Property in the proper performance of their municipal functions.

8. Additional Easements. Declarant reserves unto itself the right to grant easements over any of the Common Areas to be used for, by or in connection with the construction of additional Units or Improvements on a Unit or which may be necessary or desirable to grant to appropriate public authorities or utility companies.

**ARTICLE XIX**  
**CHANGES TO THE COMMON AREAS**

1. Condemnation. If any part of the Common Areas shall be taken by, conveyed in lieu of condemnation to, or conveyed under threat of condemnation to any authority having the power of condemnation or eminent domain, each Owner and Mortgagee shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association. If the taking or conveyance involves a portion of the Common Areas on which Improvements have been constructed, the Association shall restore or replace such Improvements on the remaining land included in the Common Areas to the extent available and practicable. Any such construction shall be in accordance with plans approved by the Board. If the taking or conveyance does not involve any Improvements on the Common Areas, if a decision is made not to restore or replace the Improvements, or if funds remain after any such restoration or replacement is complete, then such award or funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

2. Partition. Except as otherwise permitted in this Master Deed, the Common Areas shall remain undivided, and no Owner shall bring any action to partition any of the Common Areas without the written consent of all Owners and Mortgagees. Nothing in this section shall prohibit the Board from acquiring or disposing of tangible personal property or from acquiring or disposing of real property that may or may not be subject to this Master Deed.

3. Subsequent Limited Common Areas. All or part of the Common Areas may be converted from Common Areas to Limited Common Areas allocable to one or more Units by Declarant from time to time by recording an amendment to this Master Deed and amended Plans.

Copy

4. Transfer or Dedication. The Association may dedicate portions of the Common Areas to the City of Fayetteville, Washington County, the State of Arkansas or to any other local, state or federal governmental or quasi-governmental entity.

**ARTICLE XX**  
**MANAGEMENT AGREEMENT**

1. Delegation. The Association may, upon the approval of two-thirds (2/3) of the Owners and the approval, in writing, of at least fifty-one percent (51%) of the Mortgagees, delegate the power of the Association to determine the budget, make Assessments and collect Assessments to a management company. The Association shall make such delegation of its power through the execution of a management agreement with the management company.

2. Owner Assent. Each Owner and his heirs, successors and assigns, by acquiring title to such Unit or executing a contract therefor, shall be deemed to:

A. Adopt, ratify, confirm and consent to the execution of the management agreement by the Association.

B. Adopt, ratify, confirm and approve each and every provision of the management agreement as may be executed by the Association and acknowledge that all of the terms and provisions thereof are reasonable.

C. Covenant and promise to perform each and every covenant, promise and undertaking to be performed by Owners as provided in the management agreement.

D. Recognize that some or all of the Persons comprising the Board may be stockholders, officers and directors of the management company and acknowledge that such circumstances shall not and cannot be construed or considered as a breach of their duties and obligations to the Association or as possible grounds to invalidate the management agreement, either in whole or in part.

E. Agree that the Persons acting as officers and directors of the Association entering into such management agreement have not breached any of their duties or obligations to the Association.

F. Adopt, ratify, confirm and consent to the acts of the Persons acting as officers and directors of the Association in entering into the management agreement.

**ARTICLE XXI**  
**REMEDIES**

1. Enforcement. The Association, the Declarant, the Owners, the Mortgagees and each Person to whose benefit this Master Deed inures may proceed at law or in equity to prevent the occurrence, continuation or violation of any provisions of this Master Deed, and the Court in such action may award the successful party reasonable expenses in prosecuting or defending the action, including costs and attorneys' fees.

Copy

2. Suspension of Privileges. The Board may suspend all voting rights and all rights to use the Common Areas of any Owner for any period during which any Assessment or other obligation remains unpaid or during the period of any continuing violation of the provisions of this Master Deed by such Owner after the existence of which has been declared by the Board.

3. Cumulative Rights. The remedies specified herein are cumulative, and any specification of them shall not be taken to preclude an aggrieved party's resort to any other remedy at law or in equity. No delay or failure on the part of an aggrieved party to invoke an available remedy in respect to a violation of any provision of this Master Deed shall be held to be a waiver by that party of any right available to him upon the recurrence or continuance of the violation or the occurrence of a different violation.

## ARTICLE XXII MORTGAGEE PROTECTIONS

This Article establishes certain standards and covenants which are for the benefit of the holders, insurers and guarantors of certain mortgages. This Article is a supplement to, and not in substitution for, any other provisions of this Master Deed, but in the case of any conflict, this Article shall control.

1. Notice of Actions. The Association shall give written notice to each Mortgagee of the following:

A. Any condemnation loss or any casualty loss that affects a material portion of the Common Areas or any Unit in which an interest is held by the Mortgagee.

B. Any delinquency that remains uncured for sixty (60) days in the payment of any Assessment by an Owner whose Unit is encumbered by a mortgage held by such Mortgagee.

C. Any lapse, cancellation or material modification of any property damage insurance policy or fidelity insurance policy maintained by the Association.

D. Any assessment for street maintenance made by the City of Fayetteville, Arkansas against the Owners.

E. Any proposed action that would require the consent of Mortgagees.

F. Any judgment rendered against the Association.

2. Consent Required.

A. Document Changes. No amendment of any material provision of this Master Deed described below may be effective without the vote of at least two-thirds (2/3) of the Owners and the approval, in writing, of at least fifty-one percent (51%) of the Mortgagees. Material provisions include any provision affecting:



Copy

- i. Assessments if such amendment will increase the then existing amount of Assessments by more than ten percent (10%), Assessment liens or the subordination of Assessment liens.
- ii. Voting rights.
- iii. Reserves for maintenance, repair or replacement of the Common Areas.
- iv. Responsibility for maintenance and repairs.
- v. Rights to use the Common Areas.
- vi. Reallocation of interests in the Common Areas or rights to their use.
- vii. Insurance or fidelity bonds.
- viii. Imposition of any restrictions on an Owner's right to sell, lease or transfer his Unit.
- ix. Restoration or repair of the Property after hazard damage or partial condemnation in a manner other than that specified herein.
- x. Termination of this Master Deed after the occurrence of substantial destruction or condemnation.
- xi. Conversion of any Units into Common Areas or a conversion of Common Areas into Units.
- xii. Benefits of Mortgagees.

B. Actions. The Association may not take any of the following actions, except as such rights have been specifically reserved by Declarant under the provisions of this Master Deed, without the approval of at least two-thirds (2/3) of the Owners and the approval, in writing, of at least fifty-one percent (51%) of the Mortgagees:

- i. Conveyance or encumbrance of the Common Areas; provided, however, that the granting of easements for public utilities, construction and maintenance of roads or for other public purposes not inconsistent with the use of the Common Areas by the Owners shall not be deemed a transfer within the meaning of this section.
- ii. Restoration or repair of the Property after casualty damage or partial condemnation in a manner other than that specified in this Master Deed.
- iii. Termination of this Master Deed for reasons other than substantial destruction or condemnation.

Copy

- iv. Merger with any other common interest community.
- v. Granting of easements, leases, licenses or concessions through or over the Common Areas, excluding any such grants for public utilities or other public purposes not inconsistent with the use of the Common Areas by the Owners.
- vi. The assignment of future income of the Association, including the right to receive Assessments.
- vii. Any action not to repair or replace the Common Areas.

3. Notice of Objection. Unless a Mortgagee provides the Secretary of the Association with written notice of its objection, if any, to any proposed amendment or action set forth above within thirty (30) days following receipt of notice delivered by certified mail, return receipt requested, of such proposed amendment or action, the Mortgagee shall be deemed conclusively to have approved the proposed amendment or action and shall have waived any right to enter any such objection.

4. Mortgagee's Rights.

A. Payment of Taxes and Insurance. Mortgagees, jointly or singly, may pay taxes or other charges that are delinquent and that may or have become a charge against any of the Common Areas, Limited Common Areas or Units and may pay overdue premiums on property damage insurance policies, or secure new property damage insurance coverage on the lapse of a policy, for the Common Areas, Limited Common Areas or Units. Mortgagees making such payments shall be owed reimbursement from the Association.

B. Payment of Assessments. Mortgagees shall be entitled to cure any delinquency of the Owner of a Unit encumbered by the Mortgagee in the payment of the Assessments of which the Mortgagee has received notice. The Mortgagee shall be entitled to obtain a release from the lien imposed or perfected by reason of such delinquency.

C. Title Taken by Mortgagee. Any Mortgagee who obtains title to a Unit pursuant to the remedies provided in its mortgage, including foreclosure of the mortgage, shall be liable for all Assessments due and payable as of the date title to the Unit vests in the Mortgagee. Except as provided for by law, such Mortgagee shall not be liable for any unpaid dues and charges attributable to the Unit that accrue prior to the date such title vests in the Mortgagee.

**ARTICLE XXIII**  
**GENERAL PROVISIONS**

1. Grantee's Acceptance. Each grantee or purchaser of any Unit shall, by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof, accept such deed or contract upon and subject to each and all of the provisions of this Master Deed and to the jurisdiction, rights, powers, privileges and immunities of the Declarant and the Association.

Copy

2. Association as Attorney-in-Fact. Each grantee or purchaser of any Unit hereby irrevocably appoints, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, the Association as such Owner's true and lawful attorney-in-fact in such Owner's name, place and stead for the purpose of dealing with the Property, inclusive of such Owner's Unit, upon its damage or destruction or a complete or partial taking by condemnation or otherwise. In addition, the Association and the Insurance Trustee are hereby appointed as attorneys-in-fact under this Master Deed for the purpose of purchasing and maintaining insurance and to represent the Owners in any condemnation proceeding, including the collection and appropriate disposition of the proceeds of such insurance or any condemnation award, the negotiation of losses and the execution of releases of liability, the execution of all documents, and the performance of all other acts necessary to accomplish such purpose. The Association and the Insurance Trustee shall hold or otherwise properly dispose of any insurance proceeds in trust for the Owners and the Mortgagees, as their interests may appear. The Association shall have full authorization, right and power to make, execute and deliver any contract, assignment, deed, waiver or other instrument with respect to the interest of any Owner which may be necessary to exercise the powers granted to the Association as attorney-in-fact.

3. Access to Units. The Association shall have the irrevocable right to access each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of the Common Areas and facilities or for making emergency repairs therein necessary to prevent damage to the Common Areas and facilities or to another Unit or Units. Such rights shall be exercised by the Board or its duly authorized agent.

4. Severability. The provisions hereof shall be deemed independent and severable and the invalidity or partial invalidity or unenforceability of any one or more of the provisions hereof shall not affect the validity of the remaining provisions. Declarant shall have the sole and exclusive right to replace any provision determined to be invalid with a similar but presumptively valid provision addressing and limited to the same subject matter without the approval of any other Owner.

5. Successors and Assigns. This Master Deed shall inure to the benefit of and be binding upon Declarant, the Association, each Owner, the heirs, personal representatives, grantees, lessees, successors and assigns of the Owners, the Association and Declarant.

6. Remedies Cumulative. Each remedy provided by this Master Deed for breach of any of the covenants, conditions, restrictions, reservations, liens or charges contained herein shall be in addition to any other available remedy, whether provided for by law or in equity, and all of such remedies, whether provided for by this Master Deed or otherwise, shall be cumulative and not exclusive.

7. Notices. Any written notice or other document relating to or required by this Master Deed may be delivered personally or by mail. If by mail, such notice, unless expressly provided herein or in the By-Laws to the contrary, shall be deemed to have been delivered and received three business days after a copy thereof is deposited in the United States mail, postage prepaid, addressed as follows:

Copy

- A. If to an Owner other than Declarant, to the address of the Unit owned by him/her.
- B. If to a Mortgagee, to the address provided to the Association by such Mortgagee.
- C. If to Declarant, whether in its capacity as Owner of a Unit, or in any other capacity, addressed as follows:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

with a copy to:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

D. Prior to the initial meeting of the Board, notices to the Board shall be addressed to the address set forth for giving notice to Declarant. Thereafter, notices to the Board shall be addressed to the Secretary of the Board. The Board shall cause the address of the Secretary of the Board to be made known by mail to all Owners.

8. Sale of Units. Concurrently with the consummation of the sale of any Unit under circumstances whereby the transferee becomes an Owner, the transferee (buyer) shall notify the Board in writing of such sale. Such notification shall set forth: (i) the name of the transferee and his transferor (seller), (ii) the Unit designation of the Unit purchased by transferee, (iii) the transferee's mailing address and (iv) the date of sale. Prior to receipt of such notification, any and all communications required or permitted to be given by Declarant, the Board or their agents or representatives shall be deemed to be duly made and given if duly and timely made and given to the last Owner known to the Board.

9. Declarant as Owner. So long as Declarant owns any Units, Declarant shall enjoy all rights of an Owner and shall be subject to and discharge all duties of an Owner.

10. Declarant's Reservation of Alteration and Addition Rights. Declarant hereby reserves a specific right for itself to alter each Unit owned by it, to divide any Unit into one (1) or more new Units, to combine two (2) or more Units into one (1) Unit, and to use, transfer, sell, rent, lease or assign such altered Units without consent or approval of any other Owner or Mortgagee, provided that such altered Units are first fully described and delineated in an amendment to this Master Deed, executed solely by Declarant, and duly filed, which said amendment shall contain new Plans reflecting such subdivision or combination and meet all other requirements of the Arkansas Horizontal Property Act and such amendment shall become part of this Master Deed. The altered Units shall be expressly subject to all terms and conditions of this Master Deed and the By-Laws and

Copy

Rules, including the obligation to pay Common Expenses. In such situation, all Owners' percentages in the Common Areas and obligations for Common Expenses shall be redetermined in the manner set forth in Articles II and III. The right to alter, combine and divide is personal to Declarant and is not an appurtenant right of any Unit. Owners of any additional Units created hereunder shall have the right to use the Common Areas to the same extent as all other Owners.

11. Common Systems. No system, machine, equipment, conduit, duct, wire, line, pipe or other item shall be used, constructed or placed in any Unit by any Person that would or could cause any damage, undue stress, overload or surge load on any Common Area or that could defeat any measuring system connected to any Common Area.

IN WITNESS WHEREOF, the Declarant has affixed its hand and seal the date first above written

DECLARANT:

UNIQUE HOMES, INC.,  
an Arkansas corporation

By:  3/31/05  
Dale Lenk, President

ACKNOWLEDGMENT

STATE OF CALIFORNIA )  
) ss.  
COUNTY OF ORANGE )

On this 30 day of MARCH, 2005, before undersigned, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, appeared in person the within named Dale Lenk, to me personally known, who stated that he was the President of Unique Homes, Inc. and was duly authorized in his respective capacity to execute the foregoing instrument for and in the name and behalf of said corporation and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

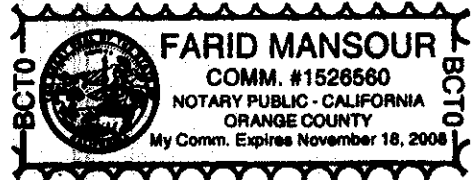
IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 30  
MARCH day of MARCH, 2005.

  
Notary Public

Dale Lenk was proved to me on the basis of satisfactory evidence

10-105865.6

37



Copy

My Commission Expires: NOV 18, 08

Copy

DAVID B. DILDY, JR., an unmarried person

David B. Dildy, Jr.  
David B. Dildy, Jr.

**ACKNOWLEDGMENT**

STATE OF ARKANSAS )  
 ) ss.  
COUNTY OF WASHINGTON Benton )

On this 24 day of March, 2005, before undersigned, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, appeared in person the within named David B. Dildy, Jr., to me personally known, who stated that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 24 day of March, 2005.

Marilyn Mothershead  
Notary Public

My Commission Expires: 2-1-2013



Copy

CURRENT OWNERS

WILLIAM H. AND BILLIE W. BARNETT,  
husband and wife

*William H. Barnett*  
William H. Barnett

*Billie W. Barnett*  
Billie W. Barnett

ACKNOWLEDGMENT

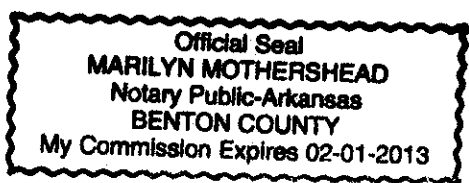
STATE OF ARKANSAS \_\_\_\_\_ )  
\_\_\_\_\_ ) ss.  
COUNTY OF WASHINGTON Benton )

On this 29 day of March, 2005, before undersigned, a Notary Public, duly commissioned, qualified and acting within and for the said County and State, appeared in person the within named William H. Barnett and Billie W. Barnett, to me personally known, who stated that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this  
29 day of March, 2005.

*Marilyn Mothershead*  
Notary Public

My Commission Expires:  
2-1-2013





Copy

KATINKA VAN DER MERWE,  
an unmarried person

*Katinka Van der Merwe*  
\_\_\_\_\_  
Katinka Van Der Merwe

**ACKNOWLEDGMENT**

STATE OF ARKANSAS )  
 ) ss.  
COUNTY OF WASHINGTON *Benton* )

On this 24 day of March, 2005, before undersigned, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, appeared in person the within named Katinka Van Der Merwe, to me personally known, who stated that she had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this         
24 day of March, 2005.

*Marilyn Mothershead*  
\_\_\_\_\_  
Notary Public

My Commission Expires: 2-1-2013



Copy

THE CLAY A. SIMPSON REVOCABLE TRUST

Clay A. Simpson, Trustee  
By: Clay A. Simpson, Trustee

**ACKNOWLEDGMENT**

STATE OF ARKANSAS )  
 ) ss.  
COUNTY OF WASHINGTON Benton )

On this 1 day of April, 2005, before undersigned, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, appeared in person the within named Clay A. Simpson, to me personally known, who stated that he was the Trustee of The Clay A. Simpson Revocable Trust and was duly authorized in his respective capacity to execute the foregoing instrument for and in the name and behalf of said trust and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 1 day of April, 2005.

Marilyn Mothershead  
Notary Public

My Commission Expires: 2-1-2013



Copy

DAVID N. AND DONNA J. MAZZANTI  
husband and wife

*David N. Mazzanti*  
David N. Mazzanti

*Donna J. Mazzanti*  
Donna J. Mazzanti

**ACKNOWLEDGMENT**

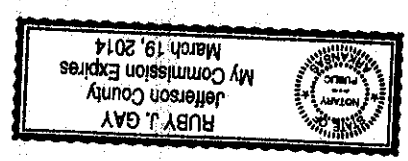
STATE OF ARKANSAS )  
 ) ss.  
COUNTY OF WASHINGTON )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2005, before undersigned, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, appeared in person the within named David N. Mazzanti and Donna J. Mazzanti, to me personally known, who stated that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 29<sup>th</sup> day of March, 2005.

*Ruby J. Gay*  
Notary Public

My Commission Expires: March 19, 2014



Copy

**EXHIBIT "A"**

**[Plan of Bellafont Gardens]**

As shown on the Final Plat of Zion Valley Estates, filed of record on January 20, 2000, in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, as Instrument Number 16-60.