

File# 2023-00010451

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
BLACKBERRY RIDGE SUBDIVISION**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF BLACKBERRY RIDGE SUBDIVISION (the “**DECLARATION**”) is made on the date hereinafter set forth by BLACKBERRY RIDGE NWA, LLC (formerly TENFELD PLANTERS, LLC, an Arkansas limited liability company (the “**DECLARANT**”).

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the Declarant is the owner of that certain real property located in Washington County, Arkansas, commonly known as Blackberry Ridge Subdivision and more particularly described on EXHIBIT A, attached hereto and incorporated herein by this reference, and on that certain Final Plat of Blackberry Ridge Subdivision, Washington County, Arkansas, to be filed in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas (the “**PLAT**”) and desires to create a single family residential community with certain common use areas for the benefit of the community, which shall be known as the “Blackberry Ridge Neighborhood” (the “**PROPERTY**”); and

WHEREAS, Declarant desires to provide for the preservation of the values in Blackberry Ridge Neighborhood and for the maintenance of the common use areas; and to this end, desires to subject the Property to these covenants, restrictions, easements, charges and liens, each of which is for the benefit of the Property, each owner of any Lot in Blackberry Ridge Neighborhood, and Blackberry Ridge POA, Inc.; and

WHEREAS, the Property is subjected to the covenants and restrictions to ensure proper use and appropriate development and improvement of the Property and every part thereof; to guard against the erection thereon of buildings, structures or improvements built of improper or unsuitable materials; to insure adequate and reasonable development of the Property and the use and enjoyment of property ownership therein; to encourage the erection of attractive improvements thereon, with appropriate locations thereof; to prevent haphazard and inharmonious improvement; to secure and maintain proper setbacks from streets, and adequate free spaces between structures; and in general to provide adequately for a type and quality of improvement in Blackberry Ridge Neighborhood consistent with the covenants and restrictions; and to insure desired standards of maintenance and operation of the Common Areas for the benefit of all owners of Blackberry Ridge Neighborhood. It is the intention and purpose of these covenants and restrictions to assure that all

dwellings in Blackberry Ridge Neighborhood shall be of a quality of design, workmanship, and materials approved by the Design Review Committee. It is understood and agreed that the purpose of architectural control is to secure an attractive harmonious residential development having continuing appeal, and in an effort to assure the same, the quality of architectural design will be considered; and

WHEREAS, it is deemed advisable that all of the Property shown on the plat hereinbefore mentioned, be subdivided into building lots, tracts and streets as shown on the Plat, and that said Property be held, owned and conveyed subject to the protective covenants, restrictions, easements and charges herein contained, in order to enhance the value of Blackberry Ridge Neighborhood; and

NOW THEREFORE, Declarant, for and in consideration of the benefits to accrue to it, its successors and assigns, which benefits it acknowledges to be of value, has caused to be filed the Plat showing the boundaries and dimensions of the Property now being subdivided into lots, tracts and streets, which Plat may be amended, modified and/or restated from time to time.

There are shown on said Plat certain easements for drainage, access, landscape and construction, which Declarant hereby reserves to and for the use of Declarant, its successors and assigns, and/or the Association. There are shown on said Plat certain easements for utilities which Declarant hereby grants to and for the use of public utilities, the same being, without limiting the generality of the foregoing, electric power, gas, telephone, water, sewer and cable television with the right hereby granted to the persons, firms or corporations engaged in the supplying of such utilities to use and occupy such easements, and to have free ingress and egress therefrom for the installation, maintenance, repair and replacement of such utility services.

The areas designated on the Plat as Common Areas are hereby donated and dedicated by Declarant and an easement is hereby granted to the Owners of all lots within Blackberry Ridge Neighborhood with the right to use these areas for pedestrian and aesthetic purposes and Blackberry Ridge POA, Inc. shall maintain such areas and improvements at its sole cost. Additionally, Declarant hereby grants to the public utilities the right to use this area only for utility easements provided such improvements are maintained by said public utilities. Except as otherwise set forth herein, no improvements shall be placed on the areas designated as Common Areas, other than improvements for those designated purposes, unless first approved by governmental agencies, if required, Blackberry Ridge POA, Inc. and the Design Review Committee established pursuant to this Declaration and the Bylaws of Blackberry Ridge POA, Inc. (the "**DESIGN REVIEW COMMITTEE**").

The filing of this Declaration of Covenants, Conditions and Restrictions of record in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County shall be a valid and complete grant, delivery and dedication of the easements subject to the limitations herein set out.

ARTICLE I DEFINITIONS

SECTION 1. **"ASSOCIATION"** shall mean and refer to Blackberry Ridge POA, Inc., a non-profit corporation incorporated under the laws of the State of Arkansas, and its successors and assigns.

SECTION 2. **"BOARD OF DIRECTORS"** and **"Board"** shall mean and refer to the duly elected Board of Directors of the Association.

SECTION 3. **"COMMON AREA"** and **"COMMON AREAS"** shall mean all real property now owned or in which an interest is hereafter acquired by the Association or which is designated as **"Common Area"** and/or **"Common Areas"** on any recorded Plat of the Development and shall include any improvements thereon. Such areas shall be devoted to the common and private use and enjoyment of Members.

SECTION 4. **"LOT"** and **"LOTS"** shall mean and refer to any parcel of land shown upon any recorded Plat of the Property upon which there has been or may be constructed a detached single-family residence.

SECTION 5. **"DECLARANT"** shall mean and refer to Blackberry Ridge NWA, LLC, or its successors or assigns, as the applicable Owner of Lots in the Development. For purposes of this Declaration, Blackberry Ridge NWA, LLC shall continue to be considered a Declarant if it is the Owner of three (3) or fewer Lots.

SECTION 6. **"DECLARATION"** shall mean and refer to the Declaration of Covenants, Conditions and Restriction of Blackberry Ridge Subdivision, as amended from time to time.

SECTION 7. **"DESIGN REVIEW COMMITTEE"** and **"DRC"** shall mean and refer to the Declarant, and/or others designated by Declarant, for the purpose of reviewing plans and specifications required to be reviewed and approved by the DRC as may herein be provided.

SECTION 8. **"DEVELOPMENT PERIOD"** shall mean and refer to that period of time in which the Declarant is the Owner of any Lot of the plat of the Property or any additional plats of new phases of this Development.

SECTION 9. **"MEMBER"** shall mean and refer to those persons entitled to membership as provided in Article IV of this Declaration.

SECTION 10. **"OWNER"** shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title in any Lot which is a part of the Property, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 11. **"PLAT"** shall mean that certain Final Plat of Blackberry Ridge Subdivision, Washington County, Arkansas, to be filed in the office of the Circuit Clerk and Ex-Officio

Recorder of Washington County, Arkansas and any other plats to additional phases subsequently filed by Declarant to be under the jurisdiction of this Declaration.

SECTION 12. "PROPERTY" shall mean all that real estate described on the plat and that is subject to the Declaration and any additions thereto as may hereafter be brought within the jurisdiction of the Association.

ARTICLE II RESERVATIONS, EXCEPTIONS, DEDICATIONS AND CONDEMNATION

SECTION 1. INCORPORATION OF PLAT. Any recorded Plat of Development dedicates for use as such, subject to the limitations set forth therein, certain streets and easements shown thereon, and such Plat further establishes certain dedications, limitations, reservations and restrictions applicable to the Property. All dedications, limitations, restrictions and reservations shown on any recorded Plat, to the extent they apply to the Property, are incorporated herein and made a part hereof as if fully set forth herein, and shall be construed as being adopted in each contract, deed and conveyance executed or to be executed by or on behalf of the Declarant conveying each Lot within the Property.

SECTION 2. RESERVATION. It is expressly agreed and understood that the title conveyed by Declarant, to any Lot within the Property by contract, deed, or other conveyance shall not be held or construed in any event to include the title to any roadway or any drainage structure; water, gas, sewer, storm sewer structures, lines or pipes; electric light pole, electric power structure or line; telegraph, telephone, audio, video, security or communication facility, system line, or structure; or any pipes, lines, poles or conduits on or in any utility facility or appurtenances thereto constructed by or under Declarant or its agents through, along or upon the Property or any part of them to serve the Property, and the right to maintain, repair, sell, or lease such appurtenances to any municipality, or other governmental agency or to any public service corporation or to any other party is hereby expressly reserved in Declarant; provided Declarant shall not be required to maintain such appurtenances.

SECTION 3. CONDEMNATION. If all or any part of Common Area is taken or threatened to be taken by eminent domain or by power in the nature of eminent domain (whether permanent or temporary), the Association shall be entitled to participate in proceedings incident thereto. The expense of participation in such proceedings by the Association shall be borne by the Association and paid for out of assessments collected pursuant to Article V hereof. The Association is specifically authorized to obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses and other persons as the Association in its discretion deems necessary or advisable to aid or advise it in matters relating to such proceedings.

All damages or awards for such taking shall be deposited with the Association, and such damages or awards shall be applied as follows. If an action in eminent domain is brought to condemn a portion of the Common Areas, the Association, in addition to the general powers set out herein, shall have the sole authority to determine whether to defend or resist any such proceeding, to make any settlement with respect thereto; or to convey such portion of the Property

to the condemning authority in lieu of such condemnation proceeding. With respect to any such taking, all damages and awards shall be determined for such taking as a whole and not for each Owner's interest therein. After the damages or awards for such taking are determined, such damages or awards shall be paid to the Association. The Association, if it deems advisable, may call a meeting of the Owners, at which meeting the Owners, by a majority of votes entitled to be cast, shall decide whether to replace restore as far as possible, the Common Areas so taken or damaged. In the event it is determined that such Common Areas should be replaced or restored by obtaining other land, this Declaration shall be duly amended by instrument executed by the Association on behalf of the Owners. If it is determined that the Common Area should not be replaced, the funds received shall be donated to the Association.

SECTION 4. JURISDICTION OF STATE AND LOCAL GOVERNMENTS. Notwithstanding anything to contrary contained herein, Declarant acknowledges that the Property is subject to certain laws, rules, regulations, and ordinances of certain state and local governments having jurisdiction over it, and any construction of improvements within the Property shall be subject to such certain laws, rules, regulations, and ordinances of such state and local governments having jurisdiction over it in addition to the dedications, limitations, reservations and restrictions contained herein.

ARTICLE III PROPERTY RIGHTS

SECTION 1. OWNER'S EASEMENTS OF ENJOYMENT. Except as otherwise set forth herein, every Lot Owner who owns an interest in the Property shall have a right to an easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to grant or dedicate easements in, on, under or above the Common Areas or any part thereof to any public or governmental agency or authority or to any utility company for any service to the Property or any part thereof;

(b) the right of the Association to prevent an Owner from planting, placing, fixing, installing or constructing any vegetation, hedge, tree, shrub, fence, wall, structure, sign or improvement or storing any personal property on the Common Areas or any part thereof without the prior written consent of the Association. The Association shall have the right to remove anything placed on the Common Areas in violation of the provisions of this subsection and to assess a fine and the cost of such removal against the Owner responsible;

(c) the right of Declarant (and its sales agents and representatives) and its assigns to the non-exclusive use of the Common Areas and the facilities thereof, for display and exhibit purposes in connection with the sale of Lots within the Property, which right Declarant hereby reserve; provided, however, that such use shall not continue for a period of more than fifteen (15) years after conveyance of the Common Areas within the Property to the Association; provided, further, that no such use by Declarant or its sales agents or representatives shall otherwise unreasonably restrict the Members in their use and enjoyment of the Common Areas;

(d) the right of the Association to establish rules and regulations pertaining to the use by Members and others of any Common Areas owned by the Association;

(e) the right of the Association to suspend the voting rights of an Owner and the Owner's right to use any Common Areas of the Association during the period the Owner is in default in excess of thirty (30) days in the payment of any maintenance charge assessment against a Lot and to suspend such rights for any infraction of its published rules and regulations. The aforesaid rights of the Association shall not be exclusive but shall be cumulative of and in addition to all other rights and remedies which the Association may have by virtue of this Declaration or its Bylaws or at law or in equity on account of any such default or infraction; and

(f) the right of Declarant, its subsidiaries or affiliates, to construct any desired improvements upon the Common Areas and/or to modify the property boundaries of any Common Areas, in each case in the sole and absolute discretion of the Declarant, with or without the consent of any other Owners or the Association.

SECTION 2. DELEGATION OF USE. Owners having an easement of enjoyment in and to the Common Areas may delegate, in accordance with the Bylaws, their right to or enjoyment of the Common Areas to members of their families, tenants, or contract purchasers who reside in Owner's residential dwelling.

SECTION 3. WAIVER OF USE. No Owner may be exempt from personal liability for assessments duly levied by the Association, nor release a Lot owned from the liens and charges hereof, by waiver of or suspension of the Owner's rights (pursuant to this Declaration or any Bylaws of the Association) with regard to the use and enjoyment of the Common Areas: thereon or by abandonment of Owner's Lot.

SECTION 4. ASSUMPTION OF RISK AND RELEASE. All Owner's, members of their families, tenants, or contract purchasers who reside in Owner's residential dwelling and have the right to the use and enjoyment of the Common Areas shall be deemed to assume any and all risk associated with such party's use of the Common Areas and, evidence by their continued use of the Common Areas, hereby release and hold harmless Developer, the Association, and each of their officers, directors, members, managers, employees, agents and other representative from any and all liability associated with such party's use of the Common Areas, specifically including, without limitation, the community swimming pool and the fishing pond, if applicable.

SECTION 5. MAINTENANCE RIGHT OF ENTRY. Declarant and the Association shall have the right of ingress and egress over the entire Property (on any Lot or other property subject to the easement) to provide access to allow Declarant, the Association, or their agents and assigns to perform the purposes and matters set forth in this Declaration.

SECTION 6. PROHIBITION ON MOTORIZED RECREATIONAL VEHICLES. No motorized or electronically powered recreational vehicle or other mode of transportation or propulsion shall be used upon the Common Areas, specifically including, without limitation, upon the trails located within the Common Areas; provided, the foregoing shall not, in any way, prohibit the use of any

vehicle or other device used to accommodate a bona fide disability or any other use which is protected by the Americans with Disabilities Act of 1990 or other applicable federal law.

ARTICLE IV MEMBERSHIP AND VOTING RIGHTS

SECTION 1. MEMBERSHIP. Each person or entity who is a record Owner of any of the Property which is subject to assessment by the Association shall be a Member of the Association. The Declarant shall be considered a member so long as the Declarant owns any Lot or Lots in the Property. The foregoing is not intended to and does not include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of the land which is subject to assessment by the Association.

SECTION 2. VOTING CLASSES. The Association shall initially have two classes of voting membership:

CLASS A. Class A members shall be all Owners with the exception of the Declarant (except as hereinafter provided) and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person owns an interest in any Lot all such persons shall be members. The vote of such Lot shall be exercised as the persons among themselves determine, but in no event shall more than one (1) vote be cast with respect to each Lot owned. Tenants who are also not owners of a Lot shall not be members and shall not be entitled to any votes.

CLASS B. The Class B member shall be the Declarant, and the Declarant shall be entitled to ten (10) votes for each Lot owned including any Lots in additional phases that may hereafter be made a part of the Development. Class B membership shall cease and be converted to Class A membership at such time as fifteen (15) Lots are occupied by Owners who have completed the construction of a single family residence upon such Lot. At such time, the Declarant shall retain voting rights equivalent to one (1) vote for each Lot owned, including any Lots in additional phases.

ARTICLE V COVENANT FOR MAINTENANCE AND ASSESSMENTS

SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. Annual assessments and special assessments are to be established as hereinafter provided, for each Lot owned by an Owner, Owner by acceptance of deed for said Lot is deemed to covenant and agrees to pay annual and special assessments to the Association, whether or not it shall be, so expressed in such deed. There shall be no assessment against any Common Areas.

The regular and special assessments, together with interest, penalties, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing and contractual lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, penalty, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment became due. The personal

obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

SECTION 2. PURPOSE OF ASSESSMENT. The assessments levied by the Association shall be used exclusively for the community for civic and social welfare and benefit of the Property and the Owners, for the purposes determined by the Association to be appropriate in accordance with its Articles of Incorporation and Bylaws, which may include, but is not required to include: municipal services; improvement and maintenance of the Common Areas; maintenance and lighting of streets within the Property; police and security service; garbage and refuse removal and collection; mosquito abatement; and other services, facilities, and activities that may be in the Association's interest, including, but not limited to, costs associated with enforcing this Declaration.

SECTION 3. AMOUNT OF ANNUAL ASSESSMENT. The amount of the annual assessment shall be determined by the Board of the Association which shall be payable on January 1 of each year or at such other time or times as may be designated by the Board. On any sale of a Lot by a Declarant, the Owner shall pay such assessment in advance on the date of conveyance to such Owner with the amount to be prorated based upon the number of months from the month of the conveyance to January 1. The maximum annual assessment may be increased above the rate specified above by a vote of a majority of the votes of members entitled to vote in person or by proxy, at a meeting duly called for such purpose.

From and after January 1, 2022, the maximum annual assessment may be increased each year by an amount no greater than fifty percent (50%) above the maximum assessment for the previous year pursuant to a majority vote of the Board. The Board may, upon a majority vote thereof: after consideration of then current maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount.

SECTION 4. SPECIAL ASSESSMENT. In addition to the annual assessments authorized above, in any year after the calendar year 2021 the Association may levy a special assessment applicable to that year only for the purpose of defraying in whole or in part, the cost for necessary purposes of the Association, such as the construction, reconstruction, maintenance, repair or replacement of a capital improvement in the Common Areas, including fixtures and personal property related thereto, or for counsel fees or the fees of other retained experts provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of Members entitled to vote in person or by proxy, at a meeting duly called for this purpose.

SECTION 5. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTION 3 AND 4. Written or electronic notice of any meeting called for the purpose of taking any such action authorized under Section 3 or 4 hereof shall be sent to all Members not less thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership; shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. Subsequent

meetings can continue to be called in the aforesaid manner with the required quorum at any subsequent meetings being one-half (1/2) of the required quorum at the preceding meeting until a quorum present and votes are cast. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

SECTION 6. EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the maximum lawful rate. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot.

SECTION 7. SUBORDINATION OF THE LIEN TO MORTGAGE. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer; provided, however, that the proceeds from any such sale, to the extent they exceed the first mortgage shall be used to satisfy the lien for assessments. No sale or transfer shall relieve such Lot from liability of any assessments which thereafter become due or from the lien thereof.

SECTION 8. SUSPENSION OF RIGHTS OF MEMBERSHIP. Prior to foreclosure of any lien upon any Lot subject to this Declaration, the Board of Directors of the Association may elect to suspend all membership rights of any Member or Members of the Association who are delinquent in any payment due to the Association for more than thirty (30) days, with such suspension to continue for so long as any such delinquency exists, and said Board of Directors may further suspend membership rights for the infraction of any rules or regulations by the Member, family of the Members or guests of the Members, relating to the violation of any obligation, covenant, or condition herein or relating to the use of any of the Common Areas, with such suspension not to exceed thirty (30) days in duration. Suspension of membership rights shall be effective from the date that notice of suspension is delivered to the Member via U.S. Certified Mail, Return Receipt Requested, postage prepaid, to the last known address of the said Member, or by electronic mail with .pdf attachment, facsimile or other electronic transmission, and a copy of the notice shall be posted on any or all of the Common Areas during said suspension.

SECTION 9. CANCELLATION AND HEARING. The said Board of Directors may elect to permanently cancel the membership and all membership rights of any Member who is delinquent in any payment due to the Association for more than ninety (90) days or when such Member, family of the Member, or guest of the Member are guilty of repeated or flagrant violation after a hearing conducted by said Board of Directors, with notice of such hearing mailed to such Member at least thirty (30) days in advance of said hearing date, and further provided that such Member may appeal any such decision of said Board of Directors to the membership of the Association by such affected Member calling a special meeting of the membership of the Association by notice mailed to each Member at least ten days in advance of the desired special meeting date, and said notice setting forth the time, date, place and purpose of said meeting. A majority of votes entitled to be cast of the Members of the Association attending such special meeting shall be necessary to override the decision of the Board of Directors, and all votes shall be by secret ballot. Notice shall

be mailed by the Member via U.S. Certified Mail, postage prepaid, return receipt requested, or by electronic mail with .pdf attachment, facsimile or other electronic transmission.

ARTICLE VI DESIGN CONTROL

SECTION 1. DRC APPROVAL. The overall plan for the Development contemplates centralization of architectural and design control to enhance, insure and protect the attractiveness, beauty and desirability of the area as a whole while at the same time permitting compatible distinctiveness of individual developments within the area. For this purpose, Declarant shall have the right and responsibility to review and approve all plans and specifications for all new construction on the Property. Further, any contractors constructing any improvements on the Lots must be approved by Declarant and must provide proof of adequate and appropriate insurance to the Declarant. Declarant shall also have the right to delegate to the Design Review Committee or to another party all or any part of its rights and responsibilities to create, administer, review and/or approve plans and specifications for new construction and to approve contractors on any part or all of the Property. At any time after ten (10) years from the date of this Declaration, or the date upon which the Declarant is no longer the Owner of any Lot, whichever occurs first, the Declarant shall relinquish to the Association all its rights and responsibilities pertaining to the review and approval of plans and specifications for construction on the Property provided that the Association has an Design Review Committee designated for the purpose of reviewing and approving the plans and specifications for construction on the property; provided, that the Declarant shall have the option of relinquishing such control at any earlier time it elects.

It is accordingly covenanted and agreed that, in addition to any other DRC approval which may be required herein and subject to other provisions hereof, no building, fence, wall, or other structure shall be commenced, erected, or maintained upon the Property, nor shall any exterior addition to or change or alteration to such structures or the color thereof (including, without limitation, site landscaping visible from any part of the Property and grading plans, reroofing materials, patio covers and trellises, plans for off-street parking of vehicles and utility layout), be made until the plans and specifications of such showing, among other things, the nature, kind, shape, height, materials, color, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Declarant or any Design Review Committee established by it or by any person or entity to which the Declarant has delegated such authority and responsibility. In the event said DRC fails to approve or disapprove any such design or location within forty-five (45) days after said plans and specifications have been received by it, approval will not be required, and this Article will be deemed to have been fully complied with. All plans and specifications shall be submitted in writing over the signature of the Owner of the Lot or the Owner's authorized agent. The DRC shall have the right to require any Owner to remove or alter any structure which has not received approval or is built other than in accordance with the approved plans and to receive reimbursement from Owner for any costs expended in this effort. The requirement of this Article is in addition to any approvals or authorizations required by any appropriate governmental entity.

SECTION 2. APPROVAL REQUIRED IN WRITING. All approvals shall be granted only in writing and by the Declarant or Design Review Committee as applicable.

SECTION 3. NO LIABILITY. Neither the Declarant and its assigns, the Association, its Board of Directors, nor the DRC or the Members thereof shall be liable in damages to anyone submitting plans or specifications to them (or approval) or to any Owner of a Lot affected by these restrictions by reason of mistake in judgment, negligence, or disapproval or failure to approve or disapprove any such plans or specifications and no approval or required modification of plans submitted shall be considered a warranty of any nature whatsoever pertaining to the suitability of such plans and specifications. Every person who submits plans or specifications to the DRC for approval agrees that no action or suit for damage will be brought against the Declarant, the Association, its Board of Directors, the DRC, or any of the members thereof.

SECTION 4. RULES AND REGULATIONS. The Declarant may, in its sole discretion adopt, promulgate, amend and repeal rules and regulations interpreting and implementing the provisions of this Article VI.

SECTION 5. VARIANCES. The DRC may recommend to the Board, and the Board may, by the vote or written consent of a majority of the members thereof, allow reasonable variances as to the covenants, conditions or restrictions contained in Article IX of this Declaration under the jurisdiction of DRC pursuant to this Article VI, on such terms and conditions as it shall require; provided, however, that all such variances shall be in keeping with the general plan for the improvement and development of the Property.

ARTICLE VII DUTIES AND MANAGEMENT OF THE ASSOCIATION

SECTION 1. DUTIES AND POWERS. In addition to the duties and powers enumerated in its Articles of Incorporation and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall:

- (a) Own, have an interest in, maintain and otherwise manage all Common Areas, improvements and landscaping thereon, and all other property acquired by the Association.
- (b) Pay any real and personal property taxes and other charges assessed against the Common Areas unless such areas come into private ownership by some Owner other than the Association or the Declarant.
- (c) Have the authority to obtain, for the benefit of all of the Common Areas, all water, gas and electric and other utility services and refuse collection.
- (d) Grant easements where necessary for utilities, drainage, and sewer facilities over the Common Areas, to serve the Common Areas and the Property in general.
- (e) Maintain such policy or policies of insurance as the Board of Directors of the Association may deem necessary or desirable in furthering the purposes of and protecting the interests of the Association and its Members.

(f) Have the authority to contract for the performance of maintenance and repair and for conducting other activities on behalf of the Association; provided, no such contract shall exceed one year without Board approval.

(g) Have the power to establish and maintain a working capital and contingency fund in an amount to be determined by the Board of Directors of the Association.

(h) Have the power to establish and charge fines or penalties for violations of any restrictions, conditions, or covenants.

(i) Have the duty to landscape and maintain the improvements, landscaping and entry markers upon the Common Areas and that hereafter may be further determined by Supplementary Declarations of Covenants, Conditions and Restrictions.

(j) Have the duty to maintain all street lights and poles (other than the standard street lights and poles provided by the electric company); all landscaping located within street right of ways; all street and regulatory signs and post (other than the standard street and regulatory signs and post).

(k) Have the duty to maintain the pavilion, community swimming pool, fishing pond and trails located within the Common Areas and to establish reasonable rules and guidelines for the use of such amenities.

SECTION 2. COMMUNITY SWIMMING POOL. The Association, together with the Developer, shall have the duty to oversee the construction of the community swimming pool located in the Common Areas and to ensure that, barring any unforeseen circumstances outside the control of the Association or the Developer, such construction is completed no later than 18 months following the filing of the Plat.

SECTION 3. RIGHTS GRANTED TO DECLARANT. Notwithstanding any provision of this Declaration to the contrary, the Association shall grant to the Declarant, its subsidiaries and affiliates, the right, at any time, to construct any desired improvements upon the Common Areas and/or to modify the property boundaries of the Common Areas that were previously donated, dedicated and transferred by Declarant to the Association, in each case in the sole and absolute discretion of Declarant, with or without the consent of any other Owners or the Association. It is hereby acknowledged that any such modification to the property boundaries of the Common Areas may result in a material increase or decrease in the acreage of such Common Areas, and the Association shall, at the direction of Declarant, execute, file and record any instrument, agreement or other document required in order to effectuate such modification.

ARTICLE VIII
UTILITY BILLS, TAXES AND INSURANCE

SECTION 1. OBLIGATIONS OF OWNERS.

(a) Each Owner shall have separate electric, gas and water meters and shall directly pay for all electricity, gas, water, sanitary sewer service, telephone service, security systems, cable television and other utilities used or consumed by Owner. Each Owner shall be required to use the garbage and waste removal service selected by the Association to service the Property.

(b) Each Owner shall directly render for taxation Owner's Lot and improvements thereon, and shall at Owner's own cost and expense directly pay all taxes levied or assessed against or upon Owner's Lot.

SECTION 2. OBLIGATIONS OF THE ASSOCIATION.

(a) In addition to that as otherwise may be provided for herein, the Association shall pay, as a common expense of all Owners, for all water, gas, electricity and other utilities used in connection with the enjoyment and operation of the Common Areas or any part thereof.

(b) The Association may render for taxation and, as part of the common expenses of all Owners, shall pay all taxes levied or assessed against or upon the Common Areas and the improvements and the property appertaining thereto.

(c) The Association shall have authority to obtain and continue in effect, as a common expense of all Owners a blanket property insurance policy or policies to insure the structures and facilities in the Common Areas and the contents thereof, and the Association against risks of loss or damage by fire and other hazards as are covered under standard extended coverage provisions, in such amounts as the Association deems proper, and said insurance may include coverage against vandalism and such other coverage as the Association may deem desirable. The Association shall also have the authority to obtain comprehensive public liability insurance in such amounts as it shall deem desirable, insuring the Association, its Board of Directors agents and employees and each Owner (if coverage for Owners is available) from and against liability in connection with the activities and obligations of the Association.

(d) All costs, charges and premiums for all utility bills, taxes and any insurance to be paid by the Association as hereinabove provided shall be paid as a common expense of all Owners and shall be paid out of the assessments.

(e) The Association shall enter into an agreement with a waste removal service provider, selected in the sole and absolute discretion of the Association, to service the entire Property.

ARTICLE IX
RESTRICTIONS OF USE FOR RESIDENTIAL LOTS AND OWNERS

SECTION 1. SINGLE FAMILY RESIDENTIAL CONSTRUCTION. There shall be no dwellings erected on any Lot other than (i) a primary single family dwelling having at least a two-car enclosed garage with entrances from the side or rear (carports are not permitted), and (ii) a permanent secondary building constructed in architectural alignment with the primary dwelling. For the avoidance of doubt or confusion, garages with entrances from the front are allowed for the permanent secondary structure. No prefabricated, manufactured, mobile or modular housing shall be placed on any Lot. Each owner shall be required to submit to the DRC a site plan (which shall specifically identify any trees larger than ten (10) inches in diameter which will be removed) and an architecture plan to the DRC, and obtain the approval of the DRC to such plans, prior to commencing any construction upon a Lot. Each dwelling built upon a Lot shall have a unique elevation plan from other dwellings on the Property. Additionally, Owners should understand the Property is intended to be a traditional neighborhood within a natural setting. The DRC shall review the Owner's architectural elements, including, but not limited to, architectural style, design, and exterior colors, through this perspective to facilitate a cohesive neighborhood. Exterior design elements may include the use of cementitious materials made to resemble non-acceptable materials (including Stucco and wood) if used as an accent covering no more than 25% of the exterior of a structure's side. Without limitation, examples of architectural elements which shall not be approved by the DRC include, but not limited to, mid-century modern or Mediterranean architectural exterior design, red or white roofs, and pink or orange exterior colors. Subject to Sections 3 and 10 of this Article, each Lot shall be used only for single-family residence purposes; provided, nothing herein is intended to restrict any Owner from providing housing to friends or extended family of such Owner; provided however, no Lot, or any portion thereof, shall be used for any commercial leasing or rental purpose without the prior consent of the Association.

SECTION 2. MINIMUM SQUARE FOOTAGE; STORIES. No primary dwellings shall be permitted on any of the Lots unless the total heated floor area of said residence, exclusive of garage, basements (finished or unfinished), and porch areas, shall be at least 2,400 square feet but no more than 3,800 square feet for Phase 1 and 4,000 square feet for Phase 2 and Phase 3. The first-floor area of any multi-level dwelling shall be at least 1,800 square feet. As it pertains to the primary dwelling, (i) the heated floor area within a secondary building on a Lot shall not be included, and (ii) the minimum square footage may be reduced to 2,000 square feet if the dwelling also includes at least an 800 square feet finished walkout basement. Any secondary building located on the Lot shall have not more than 1,000 square feet of heated floor area. Dwellings shall be no more than two (2) stories, exclusive of any attached basement so long as such attached basement is not visible from a public street.

SECTION 3. PROHIBITION OF OFFENSIVE OR COMMERCIAL USE. No activity which may become an annoyance or nuisance to the neighborhood or which shall in any way unreasonably interfere with the quiet enjoyment of each Owner of such Owner's Lot or which shall degrade property values or distract from the aesthetic beauty of the Property, shall be conducted thereon. No part of the Property shall ever be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any public-facing business or any other commercial, manufacturing,

mercantile, storing, vending or other such nonresidential purposes, except that Owners and their family may operate a small-scale business that does not impact the Property.

SECTION 4. BUILDING MATERIALS. The exterior of all Dwellings erected on the Lots shall be comprised of brick, natural stone, or cementitious material, including, without limitation, fiber cement siding. Stucco-like EIFS materials may not be used on Dwellings. All roof pitches shall be a minimum of 8/12 pitch; provided, however, that the dormers and porch roofs are excluded from the preceding pitch requirements, but the pitch of such dormers or porch roofs must still be approved by the DRC. Any composition roof on any dwelling in the neighborhood shall be a thirty (30) year architectural shingle roof. Solar panels, if installed upon the roof, shall blend with the general architectural plan if visible from public roads.

SECTION 5. LOCATION OF IMPROVEMENTS UPON THE LOTS. No building shall be located on any Lot nearer to the front line nor nearer to the side street line than the minimum building setback distances shown on any recorded Plat, and the front of any primary dwelling constructed upon a Lot shall be no less than 25 feet and no more than 50 feet from the front Lot boundary line. The Declarant shall have the right to modify these setback criteria for any additional land annexed into the Association and made subject to this Declaration, and the Declarant shall establish building setback criteria for uses other than single-family residential on a case-by-case basis.

SECTION 6. DEVIATIONS. The Declarant, or the person or entity to whom the Declarant delegate such authority (e.g., DRC), at their sole discretion, are hereby permitted to approve deviations in these restrictions on building area, location of improvements and building materials in instances where in its judgment, such deviation will not adversely affect the development of the Property as a whole. Such approvals must be granted in writing and when given will automatically amend these restrictions for that Lot only.

SECTION 7. NO LOT SPLIT. No Lot shall be split, divided or replatted without the express written approval of the Declarant or the DRC, which approval may be granted or withheld in the sole discretion of the Declarant or the DRC. Any such approved lot split shall still be subject to applicable regulations and ordinances.

SECTION 8. UTILITY EASEMENT. Easements for installation and maintenance of utilities are reserved as shown on the recorded Plat, and no structure shall be erected on any of such easements. The Declarant shall not be liable for any damage done by it or its assigns, agents, employees or contractors to shrubbery, trees, flowers or improvements located on the land covered by such easements. Utility companies shall not be liable for such damage unless they have agreed in writing to be responsible for such damage or an easement granted to them conditions such grant upon such responsibility.

SECTION 9. AUDIO AND VIDEO COMMUNICATION SERVICE. In the event that audio and video communication services and facilities are made available to any Lot by means of an underground coaxial cable system, there is hereby reserved to the company furnishing such services and facilities a two feet wide easement along and centered on the underground wire or cable when and as installed by the company furnishing the service from the utility easement nearest

to the point of connection on the permanent improvement of structure constructed, or to be constructed, upon the Lot and in a direct line from the nearest utility easement to the point of connection.

SECTION 10. TEMPORARY STRUCTURES AND OUT BUILDINGS. No structures of temporary character, nor any manufactured home, mobile home, trailer, tent, shack, barn, playhouse or other outbuilding shall be constructed, erected, altered, placed or permitted to remain on any Lot at any time, except as is necessary for the storage of equipment and materials during the construction of the dwelling. For the sake of this Section, facilities used for urban farming shall not be considered Temporary Structures or secondary buildings.

SECTION 11. ANIMAL HUSBANDRY; URBAN FARMING. It shall be the responsibility of the Owner to keep all animals on the Property appropriately contained. Dogs, cats and other common household pets (not to exceed three of each category) may be raised, bred or kept on any Lot provided they are not kept, bred or maintained for commercial purposes. Small scale urban farming (including for large animals) is allowed on a Lot if such farming is not an unreasonable nuisance. If the Association demonstrates the Owner's urban farming to have become a nuisance, the Owner shall be required to terminate such urban farming on the Property. All urban farming shall generally be completed at least 125 feet from the Lot's front property line. For the sake of this Section, small vegetable gardens coordinated with the Property's landscaping shall be considered as landscaping and not as urban farming.

SECTION 12. FENCES. Before any fence may be constructed on any residential Lot, plans must be submitted to and approved by the DRC. In considering location of a fence, the DRC may consider, among other factors, the front fence line of adjacent properties. Additional uniform fencing requirements may be established by the DRC committee from time to time in its sole and absolute discretion. No fence may be permitted to obstruct an established easement. Fencing materials shall consist of (i) black metal fencing at least four feet tall but no greater than six feet tall or (ii) cedar board to board privacy fencing at a height of six feet tall, including metal post with cap and trim and stained with Wood Defender Semi-Transparent Fence Stain or as otherwise directed by the DRC. In addition, other forms and heights of black metal fences, including black chain link or cyclone fencing, shall be considered by the DRC beyond 125 feet from the right of way and/or front property line as suitable for their intended purposes. Sections of fencing along the back property lines and areas where the fence will run parallel to the Blackberry Ridge trail system shall promote visibility (i.e. cedar privacy fencing is not allowed). All plans must be submitted to the DRC with a fence plan that shows specific locations and fencing types.

SECTION 13. ANTENNAE AND SATELLITE DISHES. No communications mast, antenna, tower or other similar structure may be installed on any Lot, except that satellite dishes may be installed only on the rear roof or sides of a dwelling and shall not exceed the height of the lowest roof ridge line of such dwelling.

SECTION 14. HEATING AND COOLING DEVICES. No detached single-family dwelling, secondary building, private garage or any other structure located on the Property shall be permitted to have a heating or cooling device located in a window or any other opening which can be viewed

from any portion of the Property. Heating and cooling devices may be used in windows or other openings of any structure used by the Declarant during the construction and sale of all structures of this neighborhood.

SECTION 15. VISUAL SCREENING. All equipment, sewer clean-out stubs, garbage cans, service yards, woodpiles, refuse containers, or storage piles and household projects such as equipment repair and construction projects shall be screened by adequate planting or fencing so as to conceal them from view of neighboring lots, streets, parks and public areas. All rubbish, trash, and garbage shall be kept in sanitary refuse containers with tightly fitting lids and shall be regularly removed from the Lots and not allowed to accumulate thereon.

SECTION 16. VISUAL OBSTRUCTIONS AT THE INTERSECTIONS OF PUBLIC STREETS. No object or thing which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways within the triangular area formed by the junction of street curb lines and a line connecting them at points twenty-five (25) feet from the junction of the street curb lines (or extensions thereof) shall be placed, planted or permitted to remain on any corner lots.

SECTION 17. LOT MAINTENANCE. All Lots shall be kept and landscaped at all times in a sanitary, healthful and attractive condition, the Owner or occupant of all Lots shall keep all the front yard free of weeds and the grass thereon shall be cut and neatly maintained and shall in no event use any Lot for storage of material and equipment except for normal residential purposes or incident to construction of improvements thereon as herein permitted, or permit the accumulation of garbage, trash or rubbish of any kind thereon, and shall not burn any garbage, trash or rubbish. All Owners shall be required to have mandatory trash pickup as provided by the Association.

SECTION 18. AUTOMOBILES, BOATS, TRAILERS, AND OTHER VEHICLES AND EQUIPMENT. No boats, trailers, campers, recreational vehicles, motorcycles, buses, inoperative vehicles of any kind, camp rigs off truck, or boat rigging shall be parked or stored in any location visible from the roadway and, in the case of inoperative vehicles, shall not remain on the Lot for more than 10 days. All automobiles and other vehicles must at all times be parked on paved surfaces located upon the Lot, and overnight parking of any vehicle on roadways shall not be permitted.

SECTION 19. LIMITED ACCESS AND DRIVEWAYS. There shall be no access to any Lot on the perimeter except from designated streets or roads within the Property. No curb cut for such access shall be closer than five (5) feet to the side property line of any Lot. All curbs are to be neatly blended into the driveway radius. All driveway and parking surfaces on Lots shall be concrete unless approved by the DRC.

SECTION 20. SIDEWALKS. Sidewalks shall be installed on each Lot in the manner required by applicable ordinances and regulations and shall be installed prior to the issuance of a certificate of occupancy for the Dwelling by the applicable governmental authority. Sidewalk construction shall be required in the public right of way in front of the dwelling, and Owner shall connect the sidewalk to the front door of the dwelling. When a sidewalk is located under a tree to be preserved, the applicable Owner shall ensure the tree root system is protected and shall include accommodations for such in the plans submitted to the DRC for approval.

SECTION 21. MAIL RECEPTACLES; DRIVEWAY CULVERT. In order to ensure a complementary look, only mailboxes and driveway culvert crossings approved by the DRC as part of the architectural plans may be installed and used by Owners. Additional uniform requirements may be established by the DRC committee from time to time in its sole and absolute discretion.

SECTION 22. SIGNS, ADVERTISEMENTS AND BILLBOARDS. No sign, advertisement, billboard or advertising structure of any kind shall be displayed to the public view on any portion of a Lot or Common Areas except for one sign for each Lot of not more than twenty-eight (28) inches by thirty-eight (38) inches solely advertising the Lot for sale or rent, and except signs used by the Declarant to advertise the Lot during the construction and sales period. The Declarant and the Association, shall have the right to remove any signs, advertisements or billboard or structure which is placed on Lots or Common Areas, in violation of this section and in so doing shall not be subject to any liability for trespass or other tort in connection therewith or arising from such removal.

SECTION 23. REMOVAL OF SOIL AND TREES. The digging of soil or the removal of soil from any Lot is expressly prohibited except as necessary in conjunction with the landscaping of or construction on said Lot. Removal of any tree larger than ten (10) inches in diameter shall require the approval of the Association, such approval not to be unreasonably withheld unless it is deemed to impact the rural nature of the Property. Each Lot shall be required to maintain a minimum of two (2) trees of at least two (2) inch diameter in the front yard of such Lot. Such trees shall be of a type and species recommended by the City of Fayetteville.

SECTION 24. LOT DRAINAGE. Each Owner of a Lot agrees that he/she will not in any way interfere with the established drainage pattern over his Lot from adjoining or other Lots in said tract; he/she will make adequate provisions for the proper drainage in the event it becomes necessary to change the established drainage over his Lot. For the purpose hereof, "established drainage" is defined as the drainage which occurred at the time that the overall grading of said tract, including landscaping of any Lots, and said tract was completed by Declarant.

SECTION 25. WATER AND MINERAL OPERATIONS AND WIND GENERATORS. No oil or water drilling, oil or water development operations, oil refinery, quarry or mining operations or any kind shall be permitted on any Lot, nor shall oil or water wells, tanks, pumps, derricks, structures, mineral excavations or shafts be permitted on any Lot. No wind generators shall be erected or maintained on any Lot.

SECTION 26. SEPTIC SYSTEMS. Any septic system installed upon a Lot shall require the additional approval of any applicable health or other regulatory agencies.

SECTION 27. FIREARMS AND WEAPONS. No firearms or other weapons shall be fired, discharged or otherwise used upon any portion of the Property, for any purpose, except as is required for personal or family protection and self-defense. All firearms and other weapons kept and stored by an Owner upon a Lot shall comply with applicable federal and state laws.

SECTION 28. ENFORCEMENT. In the event of default on the part of the Owner or occupant of any Lot in observing any or all of the requirements herein set forth, such default continuing after ten (10) days written notice thereof, the Declarant or the Association may, without liability to the Owner or occupant, in trespass or otherwise, enter upon said Lot, cut, or cause to be cut, such weeds and grass, and remove or cause to be removed, such garbage, trash or rubbish or do any other thing necessary to secure compliance with these restrictions, so as to place said Lot in a neat, attractive, healthful and sanitary condition, and may charge the Owner or occupant of such Lot for the cost of such work. The Owner or occupant, as the case may be, agrees by the purchase or the occupation of the Lot to pay such statement immediately upon receipt thereof. To secure the payment of such charges in the event of nonpayment by the Owner, a vendor's and continuing contractual lien shall be retained by the Declarant at the time of conveyance of each Lot in favor of the Declarant or Association, but inferior to a purchase money lien or mortgage. Such vendors and continuing contractual lien shall be applicable and effective whether mentioned specifically or omitted in each conveyance of a Lot by the Declarant.

SECTION 29. SPORT COURTS. Sports courts meant to facilitate outside activities are expressly allowed to be constructed in conjunction with an Owner's driveway or behind the Owner's primary dwelling.

ARTICLE X RESERVE FUNDS; LEASES

SECTION 1. RESERVE FUND. Association budgets shall include an adequate reserve fund for maintenance, repairs and replacement of those elements of the Common Areas and to insure any and all obligations of the Association that will be payable in installments as part of the common assessment.

SECTION 2. LEASES. Any lease agreement between an Owner and a lessee shall be subject in all respects to the provisions of this Declaration, the Bylaws and Articles of Incorporation of the Association whether or not reference is made to the Declaration, Bylaws and Articles of Incorporation in the lease.

ARTICLE XI GENERAL PROVISIONS

SECTION 1. ENFORCEMENT. The Association and any Owner shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens or charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

SECTION 2. SEVERABILITY. Invalidation of any one of these covenants, conditions or restrictions shall not affect any other provision, which shall remain in full force and effect.

SECTION 3. DURATION; AMENDMENT. The provisions of this Declaration shall run with and bind the Property for a term of twenty-five (25) years from this date, after which time they shall be automatically extended for successive periods of ten (10) years.

Deeds of conveyance of Lots or any part thereof, may contain the above restrictive covenants by reference to this document, but whether or not such reference is made, each and all of such restrictive covenants shall be valid and binding upon the restrictive grantees.

This Declaration may be amended during the first twenty-five year period by an instrument signed by a sufficient number of Owners representing not less than two-thirds (2/3) of the votes in the Association, and thereafter by an instrument signed by a sufficient number of Owners representing not less than fifty percent of the votes.

However, Declarant shall have the right during the Development Period, without joinder or consent of any Owner, Developer, Builder or mortgagee, to amend this Declaration or the Bylaws by an instrument in writing duly signed, acknowledged and filed for record, for any purpose whatsoever. Furthermore, the Declarant shall have the right to make additional restrictions in any deed conveying title to a Lot.

All amendments shall be recorded in the Official Public Records of Real Property of Washington County, Arkansas.

SECTION 4. BOOKS AND RECORDS. The books and records of the Association shall, during reasonable business hours, be subject to reasonable inspection by any Member. The Board of Directors may, by resolution, establish rules and regulations governing the frequency of inspection and other matters to the end that inspection of the books and records by any Member will not become burdensome to nor constitute harassment of the Association. The Declaration, the Articles of Incorporation and Bylaws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

SECTION 5. NOTICES. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing or by electronic mail with .pdf attachment, facsimile or other electronic transmission. Notices may also be posted in an online portal or other platform established by the Association for the Owners.

SECTION 6. GOOD FAITH LENDER'S CLAUSE. Any violation of these covenants, conditions or restrictions shall not affect any lien or deed of trust of record held in good faith, upon any Lot, which liens may be enforced in due course, subject to the terms of this Declaration.

SECTION 7. MERGERS. Upon a merger or consolidation of the Association with another association as provided by its Articles of Incorporation, its properties, assets, rights and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties,

assets, rights and obligations of another association may be transferred to the Association as a surviving corporation. The surviving or consolidated association shall administer the covenants, conditions and restrictions contained in this Declaration, under one administration. No such merger or consolidation shall cause any revocation, change or addition to this Declaration.

SECTION 8. ANNEXATION.

(a) Notwithstanding any other provision herein, the Declarant, its subsidiaries or affiliates, shall have the sole right and privilege, without the consent of any other Owners, to bring additional property within the scheme of the Declaration, in one (1) or more future stages, sections or additions, within fifteen (15) years of the date of recording of this instrument. Further, any land annexed to the Property and subject to this Declaration may be acquired (by gift, purchase or otherwise) and/or designated as Common Areas by the Association without the consent of any Owners. Additional land that is added or annexed shall become subject to assessment in accordance with Article V.

(b) The additions authorized under this Section shall be made by filing of record: (a) Supplementary Declaration(s) of Covenants, Conditions and Restrictions with respect to the additional lands which (1) shall extend the scheme of the covenants and restrictions or this Declaration to such lands and (2) provide, if applicable, that the proportionate ownership interests in the Common Areas or the Owners by virtue of Association membership immediately prior to the filing of such Supplementary Declaration shall be equal to the number of Lots owned by such Owner divided by the total number of Lots within the lands then subject to this Declaration after such annexation; and (b) a deed from the Declarant to the Association which shall convey to the Association the area within such additions (except for the Lots therein) as Common Areas for the sole benefit and use of the Owners, with reservation of the Declarant's rights set forth herein.

SECTION 9. DEANNEXATION.

(a) Land or lands may be deannexed from the Property with the consent of two-thirds (2/3) of each class of Members and the approval of the Owner(s) of the land to be deannexed.

(b) Notwithstanding anything contained in Subparagraph (a) above, or any other provision herein, Declarant shall have the right, without the consent of any other Owner, to deannex land from the scheme of the Declaration if the Owner of the land is agreeable to the deannexation and if the deannexation would benefit the general development process or general development plan.

(c) The deannexations authorized under this Section shall be filed of record.

SECTION 10. ADDITIONAL PHASES. The Declarant, its subsidiaries and affiliates, shall have the sole right, without joinder or consent of any Owner, to file additional plats for contiguous lands (exclusive of any public or private roadways) in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas to add additional phases which may be subject to this Declaration; provided, however, that the Declarant, its subsidiaries and affiliates, shall have the

sole right and privilege, without the consent of any other Owners or the Association, to subject additional phases to the jurisdiction and administration of the Association, whether or not such phases shall be subject to this Declaration, within fifteen (15) years of the date of the recording of this instrument; provided, in the event such additional phases are not subject to this Declaration, such additional phases shall be subject to similar restrictive covenants as it pertains to the design, architecture and construction standard of any improvements constructed thereon. For the avoidance of doubt or confusion, additional phases added under the jurisdiction and administration of the Association may be granted certain rights, including, without limitation, the right to the use and enjoyment of the Common Areas, without the consent of any other Owners or the Association and without regard as to whether such additional phases are subject to this Declaration. As it relates to the construction of additional phases either currently planned or unplanned, the Declarant, its subsidiaries and affiliates, shall have the sole right and privilege, without consent of any other Owners or the Association, to construct any desired improvements upon the Common Areas and/or to modify the property boundaries of any such Common Areas.

[REMAINDER OF PAGE INTENTIONALLY BLANK; SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned being the Declarant herein has hereunto set its hand and seal this 27th day of ~~March~~ April, 2023.

DECLARANT:

BLACKBERRY RIDGE NWA, LLC
an Arkansas limited liability company

By: _____

MICHAEL CROSNO, Manager

ACKNOWLEDGMENT

STATE OF ARKANSAS)

) ss.

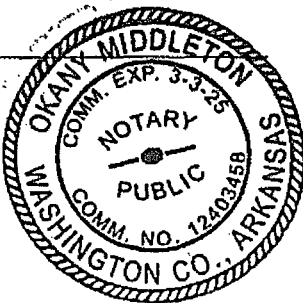
COUNTY OF Washington

April 27th 2023
On December 27th, 2021, before me, a duly qualified and acting Notary Public, personally appeared Michael Crosno, who acknowledged himself to be the Manager of Blackberry Ridge NWA, LLC, an Arkansas limited liability company, and that he, being authorized so to do, executed the foregoing instrument for the purposes and consideration therein contained, by signing the name of the limited liability company by himself as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires:



[EXECUTION PAGE TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
BLACKBERRY RIDGE SUBDIVISION]

EXHIBIT A

LEGAL DESCRIPTION OF REAL PROPERTY

ALL OF THE NW1/4 OF THE SW1/4 AND ALL THAT PART OF THE SW1/4 OF THE SW1/4 OF SECTION 25, TOWNSHIP 17 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, LYING AND BEING NORTH OF THE PUBLIC ROAD, CONTAINING 20 ACRES, MORE OR LESS, AND 32 ACRES OF EQUAL AND UNIFORM WIDTH OFF THE EAST SIDE OF THE NE1/4 OF THE SE1/4 OF SECTION 26, TOWNSHIP 17 NORTH, RANGE 31 WEST, AND CONTAINING IN ALL 92 ACRES, MORE OR LESS.

Washington County, AR
I certify this instrument was filed on
4/27/2023 2:57:32 PM
and recorded in REAL ESTATE

File# 2023-00010451
Kvle Sylvester - Circuit Clerk

