

## INSTRUMENT PREPARED BY:

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**DECLARATION OF COVENANTS AND RESTRICTIONS  
OF COTTAGES AT THE PARK POA, INC.**

This Declaration of Covenants and Restrictions of Cottages at the Park POA, Inc., an Arkansas non-profit corporation (this "**Declaration**"), is executed on June 29, 2021 by **Landmarc Custom Homes, LLC**, an Arkansas limited liability company (the "**Developer**") and joined by the owners of lots identified in the signature pages hereto (collectively, the "**Owners**"), and made effective as of the Effective Date.

RECITALS:

A. Except for the Lots owned by the Owners, each who are joining in this Declaration, Developer owns the real property described on Exhibit A attached to this Declaration (the "**Property**"), and desire to create a community known as "**Cottages at the Park**" in Springdale, Benton County, Arkansas (hereinafter, "**Cottages at the Park**").

B. Developer desires to provide for the preservation of the values in Cottages at the Parks and for the maintenance of common facilities 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 and each Owner.

C. Developer deems it desirable, for the efficient preservation of the values in Cottages at the Park, to create an association which shall be assigned the powers of maintaining, administering and enforcing these covenants and restrictions and doing all other things necessary to preserve the values and amenities of this community.

D. Developer has caused to be incorporated Cottages at the Park POA, Inc., an Arkansas non-profit corporation, for the purpose of exercising these functions.

NOW, THEREFORE, Developer declares that the Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth:

## ARTICLE I

### DEFINITIONS

The following words, when used in this Declaration or any supplemental Declaration (unless the context indicates a contrary intention), have the following meanings:

**“Assessments”** has the meaning set forth in Section 5.03.

**“Association”** means Cottages at the Park POA, Inc., an Arkansas non-profit corporation, its successors and assigns.

**“Association Expenses”** has the meaning set forth in Section 5.04 hereof.

**“Bill of Assurance”** means the Bill of Assurance to be recorded in the real estate records of Benton County, Arkansas upon the platting of the Property, and all amendments or supplements to such Bill of Assurance.

**“Board”** means the Board of Directors of the Association.

**“Business Day”** means any day of the week other than Saturday, Sunday or a day in which commercial banks are closed for business in Springdale, Arkansas.

**“Common Property”** or **“Common Properties”** means all real and personal property owned, if any, operated or controlled by the Association for the common use or benefit of all Owners.

**“Design Guidelines”** has the meaning set forth in Section 6.03.

**“Design Review Committee”** means the committee appointed pursuant to Section 6.01.

**“Developer”** means Landmarc Custom Homes, LLC, an Arkansas limited liability company, its successors and assigns.

**“Developer Control Period”** has the meaning set forth in Section 3.03.

**“Development Permit”** has the meaning set forth in Section 6.02.

**“Effective Date”** means the date this Declaration is filed in the Benton County Circuit Clerk’s office.

**“Improvement”** has the meaning set forth in Section 6.04.

**“Lot”** means any platted lot within the Property that may be purchased by any person, or owned by the Developer or the Association.

**“Member”** means any Lot Owner who by virtue of holding title to any Lot is a Member of the Association. If any Lot Owner holds title to more than one Lot, then the Lot Owner shall hold memberships equal to the number of Lots owned.

**“Mortgage”** means any mortgage, deed of trust or other security instrument used for the purpose of subjecting real property to a lien or encumbrance as security for indebtedness.

**“Owner”** and **“Lot Owner”** means any Person, whether one or more, including the Developer, who or that holds record fee simple title to any Lot which is a part of the Property, but excluding those having such interest merely as security for the performance of an obligation.

**“Person”** means an individual, firm, corporation, partnership, limited liability company, property owners association, trust, or any other legal entity, or any combination thereof.

**“Phase”** refers to Phase I, Phase II, or Phase III, individually. **“Phases”** refers to Phase I, Phase II, and Phase III, collectively.

**“Phase I”** means Lots 1 through 59.

**“Phase II”** means Lots 61 through 128.

**“Phase III”** means Lots 129 through 180.

**“Property”** means that property described on Exhibit A that is subject to this Declaration and any property subjected to this Declaration in the future pursuant to the provisions of Article II.

**“Special Assessments”** has the meaning set forth in Section 5.08.

**“Vacancy Assessment”** has the meaning set forth in Section 5.09.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION

**Section 2.01. Existing Property.** The real property that is, and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Springdale, Benton County, Arkansas and is more particularly described on Exhibit A, all of which property is referred to as the **“Property.”**

**Section 2.02. Additions Limited to Developer.** No one other than the Developer shall have the right to subject additional lands to this Declaration, unless the Developer indicates in writing to the Association that such additional lands may be included.

## ARTICLE III

### RESERVED RIGHTS OF DEVELOPER

**Section 3.01. Reservation of Rights.** Developer, as owner of the Property, expressly reserves the rights set forth in this Article with respect to the Property.

**Section 3.02. Development Rights.** Developer reserves the right, in its sole discretion, to expand the Property as provided in Article II hereof to include other lands owned by the Developer, make such property subject to the provisions of this Declaration, file one or more supplemental Declarations and/or supplemental plats with respect to such property, and create additional Lots upon such additional lands.

**Section 3.03. Developer Control Period.**

(a) **Commencement and Termination of Period.** There is a separate Developer Control Period for each Phase in Cottages at the Park (each, a “**Developer Control Period**”). The Developer Control Period with respect to a Phase begins on the Effective Date and will terminate at the earlier of the following dates: (i) no later than sixty (60) days after Developer has fully constructed residences on and deeded at least ninety percent (90%) of all Lots created (or as may be created in Developer’s sole discretion) in such Phase to third-party purchasers not affiliated with the Developer, or (ii) ten (10) years from the date the Developer transfers and deeds its first Lot within such Phase to a third-party purchaser. The termination of a Developer Control Period with respect to one Phase will not terminate a Developer Control Period with respect to another Phase. The Developer shall have the right, but not the obligation, to terminate the Developer Control Period with respect to one or more of the Phases at any time in its sole discretion by filing an instrument in the real estate records of Benton County, Arkansas providing for such termination.

(b) **Restrictions During Period.** If a Developer Control Period is ongoing with respect to one or more Phases, the Association shall not enter into any lease and/or contract for goods and services for the Property that extends beyond such Developer Control Period. Any contract and/or lease in contravention of the foregoing sentence shall be voidable at the option of the Association.

(c) **Association Books and Records.** If a Developer Control Period is ongoing with respect to one or more Phases, all books and records kept by or on behalf of the Association shall be available for examination and copying by a Member in good standing or his authorized agent. This right of examination shall exist without reference to the duration of membership and may be exercised only upon five (5) day’s prior written notice and during reasonable business hours, or otherwise at a mutually convenient time and location. Notwithstanding the terms of this Declaration to the contrary, books and records kept by or on behalf of the Association may be withheld from inspection to the extent that they concern:

- (i) Personnel records;
- (ii) An individual’s medical records;
- (iii) Records relating to business transactions that are currently in negotiation;
- (iv) Privileged communications with legal counsel; or
- (v) Complaints against a Member of the Association.

The Association may impose and collect a charge, reflecting the costs of materials and labor (including attorney and professional fees) prior to providing copies of any books and records to a Member under this Section.

**Section 3.04. Reservation of Easements.** Developer expressly reserves a perpetual easement over all driveways, parking areas, sidewalks and utility easements to connect them with other driveways, parking areas, sidewalks and utility easements within Cottages at the Park, the location of which shall be selected by the Developer.

**Section 3.05. Right To Appoint and Remove Members of Board.** If a Developer Control Period is ongoing with respect to one or more Phases, the Board shall consist solely of members appointed and determined by Developer, and Developer reserves the right to appoint and remove members of the Board pursuant to the provisions of Section 4.04 of this Declaration.

**Section 3.06. Right to Amend to Comply with Law.** Developer reserves the right to amend or supplement this Declaration in any manner necessary to establish the validity and enforceability of this Declaration or to bring this Declaration into compliance with federal law, the laws of the State of Arkansas or any common law principle or judicial decision that may affect the validity and enforceability of this Declaration.

**Section 3.07. Right to Amend to Comply with Title Insurance Company Requirements.** Developer reserves the right to amend or supplement this Declaration in any manner necessary to satisfy the requirements of any title insurance company that may be called upon by the Developer to issue title insurance policies to Owners, if such amendment is reasonably required to support the validity and enforceability of the Declaration.

**Section 3.08. Right to Amend to Make Corrections.** Except as otherwise may be provided in this Declaration, so long as Developer owns one or more Lots, Developer reserves the right at any time and from time to time to amend this Declaration as it deems appropriate, in its sole discretion, to carry out the purposes of Cottages at the Park established in this Declaration, or to correct an error or omission, or to address and/or correct any matter required by any lending institution, public body or title insurance company, or to change the configuration or size of any lands or Lots subject to this Declaration, or to facilitate the operation and management of Cottages at the Park and the Association, or to facilitate the sale of Lots. Such an amendment by the Developer may be made unilaterally, without the approval of any other party, and shall become effective upon the recording of an instrument executed by the Developer in the real estate records of Benton County, Arkansas, setting forth the amendment.

## **ARTICLE IV**

### **THE ASSOCIATION**

**Section 4.01. Formation.** Every Owner shall be a Member of the Association, which shall be governed by the Board.

**Section 4.02. Administration.** The Association was formed to effectively and efficiently provide for the administration and enforcement of the provisions of this Declaration and the performance of other duties imposed upon and accepted by the Association concerning the

Property and undertake and perform all acts and duties incident thereto in accordance with the terms, provisions, and conditions of this Declaration. True copies of the Articles of Incorporation and By-Laws of the Association are attached hereto and expressly made a part hereof as Exhibit B and Exhibit C, respectively. Each Owner shall automatically become a Member of the Association upon acquisition of title to a Lot, and the membership of such Owner shall terminate automatically upon the Owner being divested of such ownership regardless of the means by which such ownership may be divested. No Person holding any lien, mortgage or other encumbrance on any interest in a Lot shall be entitled by virtue of such, to membership in the Association or to any other rights or privileges of such membership. The Association shall have and is hereby granted the authority and power to enforce the provisions of this Declaration, specifically including, but not limited to, the right to levy and collect assessments in the manner hereinafter provided, and to enforce building covenants and restrictions set forth herein and in the Bill of Assurance as annexed hereto as Exhibit D and incorporated herein by reference. The Association shall further have and is hereby granted the authority to adopt, promulgate and enforce such rules and regulations, including, without limitation, rules governing such use of the Common Properties (including the clubhouse, swimming pool, greenspace, and trail areas), as the Association may deem to be in the best interest of Cottages at the Park, and to enforce such rules and regulations by imposing reasonable fines for violations thereof. Any such fines shall be personal obligations of the Owner against whom they are assessed and the Association may file and prosecute lawsuits to recover any amounts due or require compliance with the rules and regulations in question. Unpaid fines shall accrue interest at a rate determined by the Board not to exceed the maximum interest rate allowed by applicable law. Unpaid fines and any accrued interest shall become a lien on the Lot in the same manner as an Assessment as set forth in Section 5.10 hereof and may be enforced as set forth in that Section.

**Section 4.03. Voting.** An Owner shall have, for purposes of voting, one vote for each Lot owned by it on all matters relating to the Association upon which a vote of the Members is conducted. All action taken by a vote of the Members shall be by majority vote unless a different vote is specified in this Declaration or in the Bylaws. If a Lot is owned by more than one Person, the owners thereof shall designate one of themselves as the "Voting Member" for that interest. Only the Voting Member shall be entitled to the vote attributed to a Lot on Association issues submitted to a vote of the Members.

**Section 4.04. Appointment and Election of Board of Directors.**

(a) Developer May Appoint. Until the Developer Control Period has terminated with respect to all Phases, the Developer, in its sole discretion, may appoint, remove and replace any director of the Board and the Board shall consist solely of directors appointed and determined by the Developer. Directors are not required to be Owners. The Board shall consist of directors appointed by the Developer until the election/appointment of successor directors as provided below.

(b) Initial Board. The initial Board of the Association shall consist of three (3) members designated by the Developer as set forth in Section 4.04(a) above, who shall serve for a period commencing upon the date of their appointment and terminating (unless sooner terminated by the Developer, in its sole discretion) when the following events have each occurred: (i) the

Developer Control Period has ended with respect to every Phase and (ii) after such expiration, the successor directors have elected to terminate the Developer Control Period.

(c) **Election of Board of Directors.** At least ten (10) days prior to the expiration of the final Developer Control Period pursuant to Section 4.04(b), at a regular or special meeting of the Association called for such purpose, all Members eligible to vote, including the Developer for the Lots owned by it, shall elect three (3) successor directors to the Board. Membership in the Association is not a condition to election and service as a director. The three candidates receiving the highest number of votes of the Members shall be elected as directors. One successor director shall serve a term commencing upon his/her election and qualification and terminating on the date of the third annual Association meeting thereafter, and the election and qualification of that director's successor. One successor director shall serve a term commencing upon his/her election and qualification and terminating on the date of the second annual Association meeting thereafter and the election and qualification of that director's successor. The third successor director shall serve a term commencing upon his/her election and qualification and terminating on the date of the first annual Association meeting thereafter and the election and qualification of that director's successor. The length of the terms to be served by the initial successor directors shall be determined by lot. Thereafter, directors shall be elected for three (3) year terms and shall serve until the successor of each is elected and qualified. The length of the terms may be modified by the Bylaws. Additional directors, not to exceed a total of seven (7), may be added to the Board by amendment of the Bylaws.

(d) **Removal of Directors.** Notwithstanding any provisions of this Article to the contrary, after the Developer Control Period has expired for all Phases, the Members, by a two-thirds (2/3) majority vote of all Owners present and entitled to vote at any meeting at which a quorum is present (as defined in the Bylaws), may remove any duly elected member of the Board for any reason or no reason.

**Section 4.05. Third-Party Manager.** The Association and/or the Developer may each contract with one or more third-party managers to exercise their respective rights or perform their respective obligations under this Declaration, the Bill of Assurance, and any other agreements.

## **ARTICLE V**

### **ASSESSMENTS**

**Section 5.01. Agreement to Pay Assessments.** Each Owner, by acceptance of a deed to a Lot (whether or not expressed in the deed) covenants and agrees to pay to the Association all Assessments.

**Section 5.02. Exempt Property.** Common Properties (as defined in Article I), all Common Properties subsequently added to the Property, any areas that are designated for the common use or benefit of the Owners, and all portions of the Property owned by the Association or otherwise dedicated to any political subdivision shall be exempt from the Assessments and liens of the Association.

**Section 5.03. Assessments.** Each Owner shall initially pay annual per lot assessments in an amount equal to \$1,440.00 for each Lot that such Owner owns (the “**Per Lot Assessments**”); provided, however, the Developer reserves the right to establish the initial annual assessments for each Lot in Phase II and Phase III. In addition to the Per Lot Assessments, (i) each Owner shall pay the Special Assessments as specified in Section 5.08, (ii) if an Owner is the Owner of a vacant Lot under Section 5.09, such Owner shall pay a Vacancy Assessment for such vacant Lot, and (iii) each Owner shall pay any other agreed upon expenses (collectively with the Per Lot Assessments, the Special Assessments, and the Vacancy Assessment, the “**Assessments**”). The Developer shall not be liable for Assessments with respect to Lots that it owns.

**Section 5.04. Association Expenses.** The Association shall be responsible for and shall consider the following as common expenses: (i) the costs of Association administration, which shall include all costs and expenses incurred by the Association in performing its duties under this Declaration and/or the Bill of Assurance and taking other actions as may be authorized by this Declaration, including attorney fees, accounting fees and fees of other professionals; (ii) the maintenance, repair, replacement, acquisition, construction and reconstruction of Common Properties or any easements on the Property, (iii) any deficit remaining from a previous period, (iv) creation of reasonable contingency reserves, and (v) any other expenses and liabilities that may be incurred by the Association for the benefit of its Members under or by reason of this Declaration or the Bill of Assurance (collectively referred to herein as the “**Association Expenses**”). The Association shall treat as a contribution to reserves the excess Association revenues over Association Expenses.

**Section 5.05. Commencement of Assessments.** Assessments shall commence on a Lot on the date of the initial sale from Developer to an unaffiliated third party. The initial unaffiliated third-party purchaser of a Lot from the Developer shall pay to the Association at the closing of its purchase such purchaser’s share of the Assessments accruing on the purchased Lot for the balance of the calendar year in which such closing occurs. An Owner shall be responsible for Assessments accruing during the period of its ownership of such property. The obligation to pay Assessments may be delegated to a tenant or other third party; provided, however, the Owner shall remain liable to the Association for all such payments.

**Section 5.06. Annual Budget.** Each year, the Board shall prepare and adopt an operating budget for the following calendar year. The budget shall itemize the estimated Association Expenses for such calendar year, taking into consideration anticipated receipts (if any), and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the Assessment for the upcoming calendar year and as the primary guideline under which the Association shall be operated during such annual period. Developer shall estimate the budget for the first calendar year of the Association or portion thereof. The Association shall furnish a copy of the budget to each Owner.

**Section 5.07. Notice of Payment; Late Charge.**

(a) On or around January 1 of each year, the Association will notify each Owner of the amount of the Assessment with respect to the Owner’s Lot or Lots. Each Owner shall pay such Assessment on or before January 31 of such year, or in such other installments or times determined by the Board.



(b) All unpaid Assessments shall incur a late charge in the amount equal to 10% of the delinquent amount, and shall accrue interest at a rate equal to the maximum interest rate allowed by applicable law from the date each unpaid amount was due until paid. The failure of the Association to give timely notice of any Assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Declaration or a release of any Owner from the obligation to pay such assessment or any other assessment, but the date when the payment becomes due in such case shall be deferred to a date fifteen (15) days after notice of such assessment is given to the Owner in the manner provided in this Declaration.

**Section 5.08. Special Assessments.** In addition to the Association's regular assessments authorized by this Article, the Association may levy, at any time and from time to time, upon affirmative vote of a majority of the Members, a special Assessment (each, a "**Special Assessment**"), for the purpose of defraying, in whole or in part, the costs of any construction or reconstruction, unexpected repair or replacement of any Common Property or any part thereof, or for any other expenses incurred or to be incurred as provided in this Declaration or the Bill of Assurance (including, without limitation, Association Expenses), and such assessment will be payable over such period as the Members may determine. This Section 5.08 does not provide an independent source of authority for the Association to incur expenses, and only prescribes the manner of assessing for expenses authorized by other sections of this Declaration, the Bill of Assurance, the By-Laws or the Articles. Each Owner shall pay all Special Assessments based on the proportion of the Per Lot Assessments on the Lots owned by such Owner compared to the Per Lot Assessments on all Lots on the Property. Notice in writing of the amount of such Special Assessments and the time for payment thereof shall be given promptly to Owners, and no payment shall be due less than fifteen (15) days after such notice is given. All unpaid portions of any Special Assessment shall incur a late charge in an amount equal to 10% of the delinquent payment and accrue interest at a rate determined by the Board not to exceed the maximum interest rate allowed by applicable law from the date such portions become due until paid. All funds received from Special Assessments under this Section shall be part of Association funds.

**Section 5.09. Vacancy Assessments.** If a Lot is vacant and is owned by a Person other than the Developer or a Person to whom the Developer has assigned (in whole or in part) its rights under this Declaration, such Lot will be subject to an annual Assessment as determined by the Developer in its discretion (each, a "**Vacancy Assessment**") in addition to all other Assessments assessed against such Lot pursuant to this Declaration. A Lot will be deemed vacant under this Section 5.09 if no residence has been constructed on that Lot.

**Section 5.10. Lien for Assessments.**

(a) All sums assessed to the Owners pursuant to the provisions herein and in the Bylaws, together with interest thereon as provided herein, shall be secured by a lien on the respective Lots in favor of the Association, which lien shall be prior to all other liens upon the Lots except: (a) tax liens in favor of any assessing unit; and (b) any mortgage or deed of trust duly recorded prior to the Assessment Lien encumbering the Lot. To evidence a lien for sums assessed pursuant hereto, the Association may prepare and record in the real estate records a written notice of lien setting forth the amount of the Assessment, the date due, the amount remaining unpaid, the name of the Owner and a description of the Lot. No notice of lien shall be recorded until there is a delinquency in payment of the Assessment. In addition to the unpaid amount of the Assessment,

any recorded lien shall secure payment of all accrued interest on the assessment, late charges, title search fees, and for all costs of collecting such amounts, including attorneys' fees, whether suit be brought or not, and the Owner shall be personally liable for all such amounts.

(b) Liens created pursuant to subsection (a) above may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed in the State of Arkansas. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding (including attorneys' fees) and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any Assessments against the Lot that become due during the period of foreclosure, and all such Assessments shall be secured by the lien being foreclosed. The Association has the right to bid at any foreclosure sale, to apply as a cash credit against its bid all sums due the Association and to hold, lease, mortgage or convey the subject Lot. Furthermore, the rights of the Association herein set forth above are in addition to any other rights provided by applicable law with respect to liens for and collection of unpaid assessments.

(c) The Board shall have the right to settle and compromise any lien securing unpaid Assessments and the amount of the unpaid Assessment, including all late charges and accrued interest thereon, if such action is deemed to be in the Association's best interest.

**Section 5.11. Personal Obligation of Owner.**

(a) The amount of any Assessment against any Lot shall be the personal obligation of the Owner of such Lot to the Association. The Association may maintain suit to recover a money judgment for such personal obligation with or without foreclosing or waiving any lien securing the same. If the Association files suit against an Owner to recover a money judgment for unpaid Assessments or to otherwise enforce this Declaration, that Owner shall pay the costs and expenses incurred by the Association in connection therewith, including attorneys' fees. The Association shall have the right to assign its claim and lien rights for the recovery of any unpaid Assessments, together with any outstanding costs, charges, and attorney fees, to the Developer, any Owner or group of Owners, or any other Persons.

(b) If a Lot is owned by more than one Person, each Person with an ownership in the subject Lot shall be jointly and severally liable for all Assessments. No Owner may avoid or diminish its personal obligation for payment of Assessments by waiver of the use and enjoyment of any of the Common Property or by abandonment of its Lot or by waiving any services or amenities provided for in this Declaration.

**Section 5.12. Unpaid Assessments Shall Be Paid from Sales Price.** In the case of a voluntary sale or conveyance of a Lot, all unpaid Assessments and other amounts due the Association shall be paid out of the sales price or by the acquirer in preference over any other assessments or charges of whatsoever nature, except the following:

- (i) assessments, liens and charges for taxes past due and unpaid; and
- (ii) payments due under mortgages and other security instruments duly recorded prior to the date of the Assessment or other debt due the Association.

**Section 5.13. Statement of Account.** Upon the request of any Owner, mortgagee, prospective mortgagee or prospective purchaser of a Lot, duly authorized representatives of the Association, for a reasonable fee, shall issue a written statement setting forth the following:

- (i) The amount of the unpaid Assessments or other amounts due the Association, if any, with respect to such Lot;
- (ii) The amount of the current Assessments and the date or dates upon which installments thereof become due;
- (iii) Credit for advanced payments or prepaid items; and
- (iv) That such statement shall be conclusive against the Association in favor of persons who rely thereon in good faith.

**Section 5.14. Personal Liability of Purchaser.** Subject to the provisions herein, a purchaser of a Lot, other than purchasers from Developer, shall be jointly and severally liable with the seller thereof for all Assessments unpaid at the time of the purchase; provided, however, that the provisions of this Section shall not prejudice the purchaser's right to recover from the seller the amount paid by the purchaser to satisfy such Assessments.

**Section 5.15. Subordination of the Lien to Mortgage; Foreclosure; Remaining Liability.**

(a) The lien of unpaid Assessments provided for in this Article shall be subordinate to the lien of any prior recorded Mortgage on the Lot. The lien securing the Assessments shall be extinguished by the sale or transfer of any Lot pursuant to a decree of foreclosure of a prior Mortgage, but only if the Association is joined as a party to such foreclosure action. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due.

(b) When the purchaser of a Lot obtains title thereto as a result of the foreclosure of a Mortgage or other security instrument that extinguishes the Association's lien for unpaid Assessments on the Lot, such purchaser, its successors and assigns, which may include but not be limited to the mortgagee or other secured party, shall not be liable for any of the Assessments chargeable to such Lot accruing after the date of recording such mortgage or security interest but prior to the acquisition of title to such Lot by such purchaser. Such unpaid share of Association expenses shall be deemed to be Association Expenses collectible from all Members, including such purchaser, its successors and assigns. The provisions of this Section, however, shall not release any Member from personal liability for unpaid assessments.

**Section 5.16. Records; Rights to Inspect.**

(a) The Board shall keep, or cause to be kept, a book with a detailed account of the receipts and disbursements affecting the Association and its administration and specifying the expense of maintenance and repair of the Common Properties.

(b) Any Member, or that Member's duly appointed representative, shall have access to the Association's books of account, operating statements and other financial information

and minutes from any meeting of the Owners, the Board, or any committee of the Board in order to inspect and copy such records for any purpose reasonably related to his or her interest as a Member. Access shall be at any reasonable time at the office of the Association, if one is maintained, or such other place within Benton or Washington County, Arkansas as the Board prescribes. The Board shall establish rules regarding the notice the Member must give to the custodian of the records to obtain access, the hours and days of the week when the records may be inspected and copied, and the charge(s) imposed by the Association for copying records requested by the Member. As a condition to permitting a Member to inspect the books of account, and minute records, the Association may require the Member to agree in writing not to use or allow the use of such information for commercial or other purposes not related directly to membership in the Association. Notwithstanding the terms of this Declaration to the contrary, books and records kept by or on behalf of the Association may be withheld from inspection to the extent that they concern those items listed in Section 3.03(c).

## **ARTICLE VI**

### **DESIGN REVIEW COMMITTEE**

**Section 6.01. Designation of Committee.** The Association shall have a Design Review Committee, consisting of at least two (2) and not more than five (5) members who shall be natural persons. The Members of the Design Review Committee, and all vacancies, shall be appointed by the Developer until the Developer Control Period has expired with respect to all Phases, after which time the members of the Design Review Committee, and all vacancies, shall be appointed by the Board. Until the Developer Control Period has expired with respect to all Phases, status as a Member shall not be a prerequisite to being appointed a member of the Design Review Committee. After the Developer Control Period expires with respect to all Phases, however, at least two (2) members of the Design Review Committee shall be Members. The Board shall designate a member of the Design Review Committee as the chairman of the committee and a member as the secretary thereof. The Board may, at its sole discretion, elect to pay a stipend to the members of the Design Review Committee in any amount determined by it to be appropriate. The Board may employ and compensate professional consultants to assist the Design Review Committee in discharging its duties, which authority may be delegated to the Design Review Committee.

**Section 6.02. Function of Design Review Committee.** No Improvement or structure of any kind shall be constructed, erected, placed, altered, added to, reconstructed, or permitted to remain upon any Lot and no construction activity or grading shall be made unless a permit (a “**Development Permit**”) is issued by the Design Review Committee. Compliance with this Declaration, the Bill of Assurance, and any applicable Design Guidelines, or a variance from the Design Guidelines, is required for the issuance of a Development Permit.

**Section 6.03. Design Guidelines.** The Developer may create Design Guidelines (the “**Design Guidelines**”) in connection with the recording of the Bill of Assurance to supplement this Declaration with respect to items concerning the design of Improvements and placement of Improvements on the Lots, approved construction materials, approved construction methods, the use of a Lot before, during and after construction commences and is completed, establishing procedures for applying for and the issuance of Development Permits, establishing procedures for

obtaining a variance from the Design Guidelines, and other related matters concerning Improvements on the Property. The Design Guidelines with respect to a Phase may be modified by the Developer while the Developer Control Period is ongoing with respect to that Phase or, thereafter, by the Board. The Design Guidelines may impose obligations concerning the Property more restrictive than those set forth in this Declaration.

**Section 6.04. Definition of "Improvement".** "Improvement" means and includes all residences, buildings and roofed structures, parking areas, fences, garage doors, walls, hedges, mass plantings, poles, driveways, lakes, swimming pools, tennis courts, signs, changes in any exterior color or shape, glazing or reglazing of exterior windows with mirrored or reflective glass, and any other new exterior construction or exterior improvement, including without limitation, landscaping, that may be reasonably considered to materially alter the appearance of the property and which may not be included in any of the foregoing. The definition does not include garden plant, shrub or tree replacements or any other replacement or repair of any magnitude that would not be reasonably considered to materially change exterior colors or exterior appearances.

**Section 6.05. Majority Vote.** A majority vote of all members of the Design Review Committee is required for approval of a request or application for a Development Permit, or for granting a waiver or variance in connection with a Development Permit.

**Section 6.06. Basis of Approval.** The Design Review Committee shall approve only those requests or applications for Development Permits that conform to the provisions and intent of this Declaration, the Bill of Assurance and the applicable Design Guidelines. The Design Review Committee may approve an application subject to satisfaction of conditions or requirements that it finds to be necessary to insure compatibility with the provisions of this Declaration, the Bill of Assurance and the applicable Design Guidelines. The Design Review Committee may return for modification any application or request for a Development Permit that does not include information sufficient to allow the committee to make the above determinations. Such a return, for the purpose of any time periods required by this Declaration, the Bill of Assurance or the applicable Design Guidelines, shall be deemed a disapproval.

**Section 6.07. Appeal.** The decisions of the Design Review Committee may be appealed by the Owner submitting a request to the Board. Rules and procedures for perfecting, commencing and prosecuting an appeal of a Design Review Committee decision, including rules for the conduct of appeal hearings, may be established in the Bill of Assurance or, absent inclusion in the Bill of Assurance, promulgated by the Board. No such rules or procedures for appeals shall require any act by an Owner to perfect or commence an appeal to be performed fewer than nine (9) Business Days after the date the Design Review Committee issues its written denial or conditioned approval of an application for a Development Permit. The Design Review Committee's decision shall be final, conclusive and binding upon the applicant unless an appeal is properly commenced in accordance with the applicable procedures.

**Section 6.08. Failure of Committee to Act.** Plans, specifications and other items properly submitted for review and approval in accordance with applicable rules, regulations or submission requirements shall be deemed approved if the Design Review Committee fails to act by written notice on or before forty-five (45) days after all such required information and materials are submitted (a "Default Approval"); provided, however, no Default Approval shall be deemed to

permit the violation of this Declaration, any Bill of Assurance or any zoning requirements, and no Improvement that violates such instruments shall be erected or allowed to remain.

**Section 6.09. Limitation of Liability.** The primary responsibility of the Design Review Committee is to review Development Permit applications and requests submitted to it to determine if the proposed improvements comply with this Declaration, the Bill of Assurance and any applicable Design Guidelines. Neither the Developer, the Association, the Board, the Design Review Committee nor any officers, members, employees and agents thereof shall be liable, in damages or otherwise, to anyone submitting an application or request for a Development Permit or to any owner of land affected by this Declaration by reason of mistake of judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any plans and specifications. The Committee does not review and assumes no responsibility for the following:

- (A) The structural adequacy, capacity or safety features of the proposed improvement or structure.
- (B) Whether or not the location of the proposed improvement or structure on the building site is free from any possible hazard whether caused by conditions occurring either upon or off of the property.
- (C) Soil erosion or soil conditions.
- (D) Mechanical, electrical or any other technical design requirements for a proposed project.
- (E) Compliance with any building codes, safety requirements, or governmental laws, regulations, codes or ordinances.
- (F) Performance or quality of work of any contractor.

By acceptance of a deed to any Lot, the Owner acknowledges the foregoing and waives and releases the Developer, the Association, the Board, the Design Review Committee and all officers, members, employees and agents thereof from any and all liability arising from items for which any of such Persons have not expressly assumed responsibility.

**Section 6.10. Meetings.**

(a) **Scheduled Meetings; Agenda.** The Design Review Committee shall meet subject to the level of design review required. Owners or their representatives may schedule items on the meeting agenda of the Design Review Committee by notifying the chairman or secretary of the committee by telephone or in writing. The applicants will be advised of the scheduled meeting time. The agenda for a meeting shall be closed at 5:00 p.m. two (2) Business Days prior to the scheduled meeting.

(b) **Special Meetings.** The chairman of the Design Review Committee, acting alone, or any two (2) members of the committee acting jointly, may call a special meeting of the Design Review Committee by giving telephonic notice of such meeting to its members on or before

twenty-four (24) hours of such meeting time. The Design Review Committee may hear any item that may have otherwise been heard by the committee at a regularly scheduled meeting. The voting requirements of Section 6.05 above shall apply.

**Section 6.11. Reasonable Fee.** The Board may establish reasonable fees that the Design Review Committee may charge an Owner for its services in reviewing that Owner's application or request for a Development Permit. The Design Review Committee may require any such fees to be paid in advance of its review of any submission.

## **ARTICLE VII**

### **MAINTENANCE**

**Section 7.01. Duty of Maintenance.** Owners and occupants (including lessees) of any Lot shall jointly and severally have the duty and responsibility, at their sole cost and expense, to keep that Lot, including buildings, improvements and grounds, in a well-maintained, safe, clean and attractive condition at all times. Maintenance includes, but is not limited to, the following:

- (a) Prompt removal of all litter, trash, refuse and waste.
- (b) Lawn maintenance (other than portions that will be maintained by the Association).
- (c) Tree and shrub pruning (other than portions that will be maintained by the Association).
- (d) Watering (other than as performed by the Association).
- (e) Keeping exterior lighting and mechanical facilities in working order.
- (f) Keeping lawn and garden areas alive, free of weeds and attractive (other than those portions that will be maintained by the Association).
- (g) Keeping parking areas, driveways and roads in good repair.
- (h) Complying with all governmental health and police requirements.
- (i) Repainting of improvements, but subject to full compliance with the terms and conditions of Article VI hereof.
- (j) Repair of exterior damages to improvements.

**Section 7.02. Enforcement.** If, in the opinion of the Board, any Owner or occupant of a Lot has failed in any of the foregoing duties or responsibilities, then the Board may provide written notice of that failure, giving the Owner or occupant ten (10) days from receipt to perform the care and maintenance required. Should any person fail to fulfill this duty and responsibility within the ten (10) day period, then the Association through its authorized agent or agents shall have the right and power to enter onto the premises and perform needed care and maintenance without any

liability for damages for wrongful entry, trespass or otherwise to any person. The Owners and occupants (including lessees) of any Lot on which work is performed shall jointly and severally be liable for the cost of the work and shall promptly reimburse the Association for all costs incurred by or on behalf of the Association. If the Association has not been reimbursed within thirty (30) days after invoicing, the indebtedness shall be a debt of all of the Owners and occupants jointly and severally and shall constitute a lien against the Lot. This lien shall have the same attributes as the lien for Assessments and Special Assessments set forth in Article V, and the Association shall have identical powers and rights in all respects, including, but not limited to, the right of foreclosure.

## **ARTICLE VIII**

### **COMMON SCHEME RESTRICTIONS**

The following restrictions are imposed as a common scheme upon all Lots and Common Properties for the benefit of each other Lot and Common Property and may be enforced by any Owner or the Association through any remedy available at law or in equity:

(a) No garbage, refuse, rubbish, tree limbs, leaves or cuttings shall be deposited on any street, road or Common Properties or on any Lot unless placed in a container suitable for garbage pickup.

(b) No building material of any kind or character shall be placed upon any Lot except in connection with construction approved by the Design Review Committee or construction not requiring Design Review Committee approval. Construction shall be promptly commenced and diligently prosecuted.

(c) No service yards, woodpiles or storage areas shall be so located as to be visible from a street, road, or Common Property.

(d) Any exterior lighting installed on any Lot shall either be indirect or of such controlled focus and intensity as not to disturb the residents of the adjacent property.

(e) No livestock, animals or poultry shall be kept on any Lot or Common Property except a reasonable number of ordinary household pets belonging to the household.

(f) Basketball goals shall only be allowed on a Lot provided that the post for the basketball goal is set in a hole near a driveway and permanently set in the ground. No movable basketball goals shall be allowed on a Lot.

(g) Other than signs relating to model homes, no signs, plaques or communication of any description shall be placed on the exterior of any Lot or Common Property unless approved by the Design Review Committee. Provisions concerning the use of signs advertising a Lot for sale shall be set forth in the Design Guidelines.

(h) Other than on Common Properties and as approved by the POA as a neighborhood-wide event, there shall be no garage sales, yard sales, or similar sales or auctions conducted on any Lot.



(i) No nuisances shall be allowed in Cottages at the Park nor shall any use or practice be allowed which is a source of annoyance to its residents or which interferes with their right of quiet enjoyment.

(j) No immoral, improper, offensive or unlawful use shall be made of Cottages at the Park or any part thereof, and all valid laws, zoning, bylaws and regulations of all governmental bodies having jurisdiction shall be observed.

(k) No portion of a Lot (other than the entire Lot) may be rented, and no transient may be accommodated therein unless by consent of the Owner.

(l) No used or previously erected or temporary house, structure, house trailer or nonpermanent outbuilding shall ever be placed, erected or allowed to remain on any Lot or Common Property.

(m) No junk vehicle, commercial vehicle, trailer, truck, camper, camp truck, house trailer, golf carts, all-terrain vehicles or similar equipment, boats or other machinery or equipment (except as may be reasonable and customary in connection with the use and maintenance of any improvements located upon the Property and except for such equipment and/or machinery as the Association may require in connection with the maintenance and operation of the Common Properties) shall be kept upon the Property, nor (except for bona fide emergencies) shall the repair or extraordinary maintenance of automobiles or other vehicles be performed. This restriction shall not apply to vehicles, trailers, boats, machinery, equipment or the like stored and kept within an enclosed storage room or garage, or otherwise properly screened from view.

(n) All buildings built on any Lot shall comply with the setback restrictions imposed upon the Lot on either a recorded plat in the Circuit Clerk's office of Benton County, Arkansas, the Bill of Assurance, or in the deed to each purchaser of a Lot. The Bill of Assurance may provide that variances from such setback restrictions may be granted.

(o) Easements for access to, installation and maintenance of utilities and drainage of facilities and for pedestrian traffic may be reserved in rights of way of drives and roads and in such other locations as shown on a recorded plat of the Property.

(p) Each Owner hereby grants a right of access to its Lot to the Association and/or any other Person authorized by the Board for the purpose of making inspections or for the purpose of correcting any conditions originating in its Lot and threatening another Lot or any Common Property, or for the purpose of performing installations, alterations or repairs to the parts of the Lot over which said Persons have control and/or responsibility for maintenance. Requests for such access shall be made in advance and entry must be at a time reasonably convenient to the Owner. In case of an emergency, this right of entry shall be immediate whether the Owner is present or not.

## ARTICLE IX

### COMMON PROPERTIES AND STREETS

**Section 9.01. Title to Common Properties.** Developer will convey title to Common Properties to the Association at its convenience, but no later than one year after the Developer Control Period has expired with respect to all Phases. Any conveyance of Common Properties shall be free and clear of all liens securing any indebtedness or obligation of the Developer (other than the current year's ad valorem real estate taxes that are due but not payable), but may be subject to any rights of access or easements retained by the Developer for utilities, maintenance or similar purposes, the rights of Developer under Section 9.02(b) below, and any other encumbrance that does not materially hinder the intended use of such properties.

**Section 9.02. Operation and Maintenance.**

(a) The Association shall maintain the Common Properties at its sole cost and expense before and after the conveyance of the Common Properties to the Association.

(b) For a period of ten (10) years after Developer has conveyed the Common Properties to the Association, the Developer shall have the right, but not the obligation, to enter upon such properties and perform such repairs, maintenance, reconstruction or replacement of the improvements located thereon so as to keep the improvements, in Developer's reasonable discretion, in good condition and repair. Developer shall give the Association not less than ten (10) days' written notice of its intent to enter upon the Common Properties to perform such work. The Association shall pay Developer within ten (10) days after written demand therefor all cost and expense incurred by or on behalf of the Developer in performing such work. All amounts due from the Association shall accrue interest from the date of demand until payment at the highest rate allowed by law. The Association shall pay all attorneys' fees and expenses, including litigation expenses, incurred by Developer in collecting amounts due from the Association and the enforcement of Developer's rights under this Section.

**Section 9.03. Streets and Roads.** The streets and roads in Cottages at the Park are public, and are subject to rules and regulations determined from time to time by the City of Springdale.

## ARTICLE X

### AMENDMENT OF DECLARATION

**Section 10.01. Amendment Before Close of First Sale.** Prior to the delivery of the first deed to a Lot in a Phase to a Person unaffiliated with the Developer, this Declaration, any recorded plat(s) of the Property, and any amendment(s) or supplement(s) to either may be amended in any respect or revoked by the execution and recordation in the real estate records of Benton County, Arkansas by the Developer, and any mortgagee of record, of an instrument amending, supplementing or revoking the Declaration, any recorded plat(s) or any amendment(s) or supplement(s) to either. This Section 10.01 will be applied separately with respect to each Phase, meaning, for example, that if the Developer sells a Lot in Phase I to a Person unaffiliated with the Developer prior to selling any Lot in Phase II or Phase III, then the Developer may still file

amendments, supplements, or revocations with respect to Phase II or Phase III in accordance with this Section 10.01.

**Section 10.02. Amendment After Close of First Sale.** After the period for amendment under Section 10.01 with respect to a Phase has ended, the following procedures for amendment will apply with respect to such Phase:

(a) **Amendment During Developer Control Period.** So long as a Developer Control Period is ongoing with respect to that Phase, this Declaration, any recorded plat, and any amendment or supplement to either, or any portion of either, may be amended, supplemented, or revoked with respect to such Phase by the Developer without the vote or written consent of the Owners or the Association.

(b) **Amendment After Developer Control Period.** After the expiration of the Developer Control Period with respect to such Phase, any amendment, supplement, or revocation of this Declaration, any recorded plat of the Property, or any amendment or supplement to either for any purpose not related to matters governed by the rights reserved exclusively to the Developer in Article III of this Declaration, and except as otherwise provided in this Declaration or the laws of the State of Arkansas, shall require an instrument signed by Owners of more than sixty-five percent (65%) of the Lots in Cottages at the Park (excluding the Common Properties), including votes of the Developer for Lots owned by it, provided that any such amendment or supplement shall not modify or eliminate the reserved rights of the Developer set out in Article II or Article III.

(c) **Effective Date.** Any amendment, supplement, or revocation of this Declaration or any recorded plat of the Property, whether made by Developer pursuant to its reserved rights set out in Article II and Article III, or by the Owners as provided in the preceding subsection (b), shall not be effective until such amendment, supplement, or revocation is duly recorded.

**Section 10.03. Reserved Rights of Developer Not Subject to Amendment.** The terms of this Article and the reserved rights of the Developer, including but not limited to the right to amend this Declaration, set out in this Article and Article III hereof shall not be altered, impaired, prejudiced, or eliminated by the Owners pursuant to Section 10.02(b) above by an amendment or supplement to this Declaration, the Bill of Assurance, or any recorded plat of the Property, unless such amendment or supplement is executed by Developer.

## **ARTICLE XI**

### **GENERAL PROVISIONS**

**Section 11.01. Duration.** The covenants and restrictions of this Declaration shall run with and bind the land, shall inure to the benefit of and be enforceable by the Association or the Owner of any land subject to this Declaration and their respective legal representatives, heirs, successors and assigns, for a term of forty (40) years from the Effective Date, after which time the covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument terminating these covenants and restrictions signed by the then Owners of sixty-five

percent (65%) of the Lots (excluding the Common Properties) has been recorded prior to the commencement of any ten (10) year period.

**Section 11.02. Notices.** Any notice required to be sent to any Member or 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 Member or Owner of a Lot on the records of the Association at the time of mailing. Each purchaser of a Lot shall forward a copy of its recorded warranty deed to the Association or its officers.

**Section 11.03. Enforcement.** Enforcement of this Declaration shall be by any proceeding at law or in equity against any Person or Persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants and restrictions. Failure by the Association or any Owner to enforce any covenant or restriction shall not be deemed a waiver of the right to do so thereafter. The right to obtain an injunction or other equitable remedy shall be available notwithstanding the availability of an adequate remedy at law. The Owner or Owners of any Lot against whom an enforcement action is commenced waives the right to assert the availability of an adequate remedy at law as a defense to an injunction or other equitable remedy.

**Section 11.04. Severability.** Invalidation of any one of the covenants or restrictions in this Declaration by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

**Section 11.05. Attorney Fee.** In any legal or equitable proceeding for the enforcement or to restrain the violation of this Declaration or any provision hereof, by reference or otherwise, the Association shall be entitled to attorney fees in such amount as the court finds reasonable. All remedies provided for herein, or at law or equity, shall be cumulative and not exclusive.

**Section 11.06. Dissolution.** The Association may be dissolved with consent given in writing and signed by not less than three-fourths of the Members. Upon dissolution of the Association other than incident to a merger or consolidation, the assets of the Association shall be conveyed and granted and assigned to any nonprofit corporation, association trust or other organization to be devoted to the same or similar purposes.

**Section 11.07. Construction of Instrument.** This Declaration shall not be construed more strictly against a party merely by virtue of the fact that it may have been prepared by counsel for a party. The headings of various Sections in this Declaration and all exhibits and attachments hereto are for convenience only, and are not to be utilized in construing the content or meaning of the substantive provisions hereof. Section and Exhibit references are to Sections of and Exhibits to this Declaration unless otherwise specified. All references to instruments, documents, contracts and agreements are references to such instruments, documents, contracts and agreements as the same may be amended, supplemented and otherwise modified from time to time, unless otherwise specified. The words "hereof", "herein" and "hereunder" and words of similar import when used in this Declaration and its exhibits shall, unless otherwise specifically stated, refer to this instrument as a whole and not to any particular provision of this Declaration.

**Section 11.08. Assignment.**

(a) Assignment by Owner or Member. The membership of an Owner in the Association and a Person's rights as an Owner under this Declaration are appurtenant to the Tract giving rise to such membership and rights as an Owner, and shall not be assigned, transferred, pledged, conveyed, or alienated in any way except upon the transfer of fee simple title to such Tract and then only to the transferee of title to such Tract. Any attempt to make a prohibited transfer shall be void.

(b) Assignment by Developer. The Developer may freely assign its rights under this Declaration in whole or in part, except that the Developer will not be deemed to have assigned its rights under this Declaration in connection with a sale of a portion of the Property unless the Developer specifically states in writing that the Developer is assigning its rights as Developer under this Declaration.









*[Signature Page to Declaration of Covenants]*

**OWNER:**

*Karen Ligon Wagon*  
Karen Ligon Wagon

Lot 28

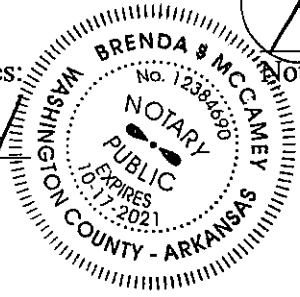
STATE OF ARKANSAS )  
COUNTY OF Washington ) ss.

**ACKNOWLEDGMENT**

On this 27<sup>th</sup> day of August, 2021, before me, a Notary Public (or before any officer within this State or without the State now qualified under existing law to take acknowledgments), appeared the within named **KAREN LIGON WAGNON**, to me personally well known (or satisfactorily proven to be such person), who stated and acknowledged that she had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

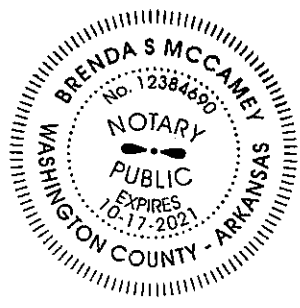
IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 27<sup>th</sup> day of August, 2021.

My Commission Expires: 10-17-2021



*Brenda S. McCamey*  
Notary Public

[Signature Page to Declaration of Covenants]



OWNER:

[Signature]  
Garrett Brian Sanford

[Signature]  
Cheryl Lee Sanford

Lot 30

STATE OF ARKANSAS )  
COUNTY OF Washington ) ss.

ACKNOWLEDGMENT

On this 22 day of August, 2021, before me, a Notary Public (or before any officer within this State or without the State now qualified under existing law to take acknowledgments), appeared the within named **GARRETT BRIAN SANFORD and CHERYL LEE SANFORD**, to me personally well known (or satisfactorily proven to be such person), who stated and acknowledged that they had so signed, executed and delivered said foregoing 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 22 day of August, 2021.

My Commission Expires:  
10-17-2021

[Signature]  
Notary Public







**EXHIBIT A****Legal Description****Phase 1**

Lots 1 through 59, Revised Final Plat of Cottages at the Park Phase 1, Springdale, Benton County, Arkansas, recorded on May 27, 2021, File No. L202139930.

**PHASE II DESCRIPTION - PART OF PARCEL NO. 21-00167-556:**

A PART OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION TWENTY (20), TOWNSHIP EIGHTEEN NORTH (T-18-N), RANGE THIRTY WEST (R-30-W) OF THE FIFTH PRINCIPAL MERIDIAN, CITY OF SPRINGDALE, BENTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 20, SAID POINT BEING A FOUND RAILROAD SPIKE IN WEST COUNTY LINE ROAD; THENCE ALONG THE SOUTH LINE OF SAID SW 1/4, S86°35'37"E A DISTANCE OF 659.90 FEET TO A FOUND RAILROAD SPIKE IN WEST COUNTY LINE ROAD; THENCE LEAVING SAID SOUTH LINE, N02°27'18"E A DISTANCE OF 705.55 FEET TO THE POINT OF BEGINNING; THENCE N02°27'18"E A DISTANCE OF 654.06 FEET; THENCE S87°32'42"E A DISTANCE OF 987.96 FEET; THENCE S02°22'15"W A DISTANCE OF 654.06 FEET; THENCE N87°32'42"W A DISTANCE OF 988.92 FEET TO THE POINT OF BEGINNING, CONTAINING 14.84 ACRES, MORE OR LESS. SUBJECT TO THE RIGHT OF WAY OF DOWNUM ROAD ON THE EAST SIDE THEREOF.

**PHASE III DESCRIPTION - PART OF PARCEL NO. 21-00167-556:**

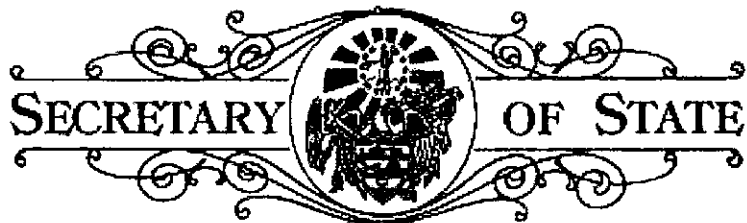
A PART OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION TWENTY (20), TOWNSHIP EIGHTEEN NORTH (T-18-N), RANGE THIRTY WEST (R-30-W) OF THE FIFTH PRINCIPAL MERIDIAN, CITY OF SPRINGDALE, BENTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 20, SAID POINT BEING A FOUND RAILROAD SPIKE IN WEST COUNTY LINE ROAD; THENCE ALONG THE SOUTH LINE OF SAID SW 1/4, S86°35'37"E A DISTANCE OF 659.90 FEET TO THE POINT OF BEGINNING, SAID POINT BEING A FOUND RAILROAD SPIKE IN WEST COUNTY LINE ROAD; THENCE LEAVING SAID SOUTH LINE, N02°27'18"E A DISTANCE OF 705.55 FEET; THENCE S87°32'42"E A DISTANCE OF 988.92 FEET; THENCE S02°22'15"W A DISTANCE OF 721.99 FEET; THENCE N86°35'37"W A DISTANCE OF 990.12 FEET TO THE POINT OF BEGINNING, CONTAINING 16.21 ACRES, MORE OR LESS. SUBJECT TO THE RIGHT OF WAY OF COUNTY LINE ROAD ON THE SOUTH SIDE THEREOF AND DOWNUM ROAD ON THE EAST SIDE THEREOF.

**EXHIBIT B**

**Association Articles of Incorporation**

**STATE OF ARKANSAS**



**John Thurston**

ARKANSAS SECRETARY OF STATE

To All to Whom These Presents Shall Come, Greetings:

I, John Thurston, Arkansas Secretary of State of Arkansas, do hereby certify that the following and hereto attached instrument of writing is a true and perfect copy of

**Articles of Incorporation for Dom. Non-Profit Corp**

of

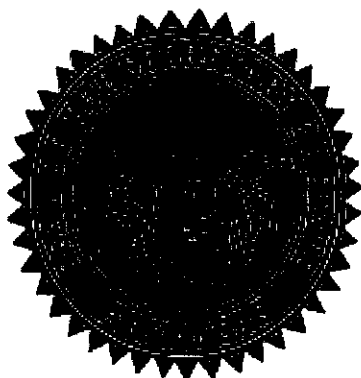
**COTTAGES AT THE PARK POA, INC.**

filed in this office  
June 03, 2021

In Testimony Whereof, I have hereunto set my hand and affixed my official Seal. Done at my office in the City of Little Rock, this 3rd day of June 2021.

  
John Thurston  
Secretary of State

Online Certificate Authorization Code: 43341560b9199d89fd4  
To verify the Authorization Code, visit [sos.arkansas.gov](http://sos.arkansas.gov)







# Articles of Incorporation for Dom. Non-Profit Corp - 501(c)(3)

## Filing Information

**Filing Act:** 1147 of 1993

**Entity Name:** COTTAGES AT THE PARK POA, INC.

**File Date:** 2021-06-03 12:48:39

**Effective Date:** 2021-06-03

**Filing Signature:** JASON N. BRAMLETT

**Organization Type:** Mutual - Benefit Corporation

**Asset Distribution:** Upon dissolution of the corporation whenever and however occurring, the property, assets and business of the corporation shall pass pro rata to the corporation's members at the time of the dissolution, based on the number of votes held by each member. Ownership and title to such assets shall pass in undivided interests as tenants in common, which shall be an inseparable part of the members' interest in his or her Lot and no partition of these interests is permitted or allowed. To the extent any of such property or assets constitute Common Property of the subdivision, such property shall remain undivided and no member or any other person shall bring any action for partition or division of any part thereof.

**Power:** No part of the net earnings of the corporation shall inure to the benefit of any member, director, or officer of the corporation, or any person having a personal or private interest in the management or control thereof, or of any other private persons (other than by acquiring, constructing, or providing management, maintenance, and care of the Association property, or by a rebate of excess membership dues, fees or assessments); except that reasonable compensation may be paid for services rendered to, or for, the corporation, effecting one or more of its purposes, and the corporation may make reimbursement to its members, directors, officers or employees for expenses incurred in attending to their authorized duties, said expenses to be evidenced by receipts or other proper documents. Notwithstanding any other provision of these Articles, the corporation shall not carry on any other activities not permitted to be carried on by a homeowners association treated as exempt from taxes on certain income under Section 528 of the Internal Revenue Code of 1986 (or the corresponding provisions of any future United States Internal Revenue law).

**Has Members:** Yes

**Primary Purpose:**

The purpose for which this corporation is organized:

1. The primary purpose of the Corporation shall be: This corporation is organized exclusively for the purpose of carrying on the exempt functions of a homeowners association as defined in Section 528 of the Internal Revenue Code of 1986 (or the corresponding provisions of any future United States Internal Revenue law). The specific purposes for which the corporation is organized are: (a) To provide for the acquisition, construction, management, maintenance, and care of association property consisting of property held by the corporation, property commonly held by the members of the corporation, and property within the Association privately held by members of the corporation, as further defined in Section 528 of the Internal Revenue Code of 1986 (or the corresponding provisions of any future United States Internal Revenue law). (b) To receive and maintain a fund or funds of real or personal property, or both, and, subject to the restrictions hereinafter set forth, to use and apply the whole, or any part, of the income therefrom and the principal thereof exclusively for the purpose of carrying on the exempt functions of a homeowners association as defined in Section 528 of the Internal Revenue Code of 1986 (or the corresponding provisions of any future United States Internal Revenue law). (c) To have and exercise all powers, privileges and rights conferred upon corporations by the laws of the State of Arkansas and all powers and rights incidental to carrying out the purposes for which this corporation is formed, except such as are inconsistent with the express provisions of the Act under which this corporation is incorporated. (d) The foregoing shall be construed both as objects and powers, and the enumeration thereof shall not be held to limit or restrict in any manner the general powers conferred upon this corporation by the laws of the State of Arkansas, all of which are hereby expressly claimed.
2. To conduct any business enterprise not contrary to law.
3. To exercise all the powers enumerated in Section 4-27-302 of the Arkansas Business Corporation Act.

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**Registered Agent:**

**First Name:** JASON  
**Middle Name:** N.  
**Last Name:** BRAMLETT  
**Address 1:** 3350 S. PINNACLE HILLS PKWY., SUITE 301  
**City:** ROGERS  
**State:** AR  
**Zip:** 72758  
**Country:** USA

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**Officers**

**First Name:** JASON  
**Middle Name:** N.  
**Last Name:** BRAMLETT  
**Title:** Incorporator/Organizer  
**Address 1:** 3350 S. PINNACLE HILLS PKWY., SUITE 301  
**City:** ROGERS  
**State:** AR  
**Zip:** 72758  
**Country:** USA

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**First Name:** CHRIS  
**Last Name:** BRADLEY  
**Title:** Director  
**Address 1:** 1224 S. MAESTRI RD.  
**City:** SPRINGDALE  
**State:** AR  
**Zip:** 72762

**Country: USA**

**EXHIBIT C**

**Association By-laws**  
(attached hereto)

**BYLAWS OF  
COTTAGES AT THE PARK POA, INC.,  
AN ARKANSAS NONPROFIT CORPORATION**

**ARTICLE I**

**NAME AND LOCATION**

The name of the Corporation is COTTAGES AT THE PARK POA, INC., hereinafter referred to as the "*Association*". The principal office of the Association shall be located at 1224 S. Maestri Road, Springdale, Arkansas 72762, but meetings of Members may be held at such places within Benton or Washington County, Arkansas, as may be designated by the Board of Directors. Meetings of the Board of Directors may be held at such places in the United States as may be designated by the Board of Directors.

The Association may have such other offices, either within or without the State of Arkansas, as the Board of Directors may designate or as the affairs of the Association may require from time to time by the Board of Directors.

**ARTICLE II**

**DEFINITIONS**

The following words, when used in these Bylaws, shall have the following meanings:

"*Association*" shall mean and refer to COTTAGES AT THE PARK POA, INC., an Arkansas nonprofit corporation, its successors and assigns.

"*Bill of Assurance*" shall mean and refer to any bill of assurance applicable to and encumbering a Lot.

"*Common Property*" shall mean all real and personal property owned, if any, operated or controlled by the Association for the common use and enjoyment of all Owners.

“*Declaration*” shall mean and refer to the Declaration of Covenants and Restrictions of Cottages at the Park Subdivision applicable to the Properties recorded in the office of the Recorder of Benton County, Arkansas.

“*Developer*” shall mean and refer to Landmarc Custom Homes, LLC, an Arkansas limited liability company, its successors and assigns.

“*Lot*” shall mean and refer to any plot of land upon which a single housing unit, together with appurtenant structures as allowed by the Declaration and the applicable Bill of Assurance, is located and shown by number upon any recorded subdivision map of the Properties with the exception of any Common Property.

“*Member*” shall mean and refer to those persons entitled to membership as provided in the Declaration.

“*Owner*” shall mean and refer to the record owner, whether one (1) or more persons or entities, of the fee simple title to any Lot that is a part of the Properties, including contract buyers, but excluding those having such interest merely as security for the performance of an obligation.

“*Properties*” shall mean and refer to the “Property” as defined and described in the Declaration, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

### ARTICLE III

#### MEETING OF MEMBERS

**Section 3.1 Annual Meetings.** The first annual meeting of the Members shall be held on a day following the filing of the Articles of Incorporation for the Association with the Arkansas Secretary of State, chosen by the Board of Directors, and each subsequent regular annual meeting of the Members shall be held on a day chosen by the Board of Directors during the same month of

each year thereafter, at the hour of 10:00 a.m., or such other time determined by the Board of Directors. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday. The Board of Directors shall cause written notice of the date of the annual meeting to be given in the manner set forth in Section 3.4 hereof.

**Section 3.2 Special Meetings.** Special meetings of the Members may be called at any time by the president or by the Board of Directors, or upon written request of the Members who are entitled to vote one-fourth of all of the votes.

**Section 3.3 Place of Meeting.** The Board of Directors may designate any place within Benton County or Washington County in the State of Arkansas as the place of meeting for annual meetings or special meetings called by the Board of Directors. A waiver of notice signed by all Members entitled to vote at a meeting may designate any place, either within or without the State of Arkansas, as the place for the holding of such meeting. If no designation is made, or if a special meeting is otherwise called, the place of meeting shall be the registered office of the Association in the State of Arkansas.

**Section 3.4 Notice of Meetings.** Written notice of each meeting of the Members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, either by hand delivery or by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each Member entitled to vote at such a meeting, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

**Section 3.5 Quorum.** The presence at the meeting, either in person or by proxy, of twenty percent (20%) of the Members of the Association shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote at such a meeting shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented. If a quorum is present, an affirmative vote by a majority of votes entitled to be cast at the meeting is an act of the Members except as otherwise specifically provided in the Articles of Incorporation, the Declaration, or these Bylaws.

**Section 3.6 Membership Voting.** The Association shall have one (1) class of voting membership and every owner of a Lot shall be a Member with each Lot being entitled to one (1) vote, regardless of whether or not ownership of the Lot may be divided. If a Lot is owned by more than one (1) person, the owners thereof shall designate one of themselves as the "*Voting Member*" for that interest. Only the Voting Member shall be entitled to the vote attributed to a Lot on Association issues submitted to a vote of the Members. The Board shall have the right to disqualify the vote of a Member upon receipt of evidence that the Voting Member apparently acting for the Member lacked authority or was not properly designated by the multiple Persons owning a Lot. The owner of any portion of a subdivided Lot shall be entitled, in addition to his/her vote arising from the whole Lot owned by him or her, to a fractional vote determined pro rata based on the proportion of square feet of land in such subdivided portion to the total number of square feet in the originally platted Lot prior to being subdivided.

**Section 3.7 Proxies.** At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. The maximum proxy



appointment is for three (3) years. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

#### **ARTICLE IV**

##### **BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE**

**Section 4.1 Number; Appointment by Developer.** The affairs of this Association shall be managed by a Board of three (3) directors, who need not be Members of the Association. Notwithstanding anything herein to the contrary, the original directors of the Board shall be appointed by Developer as set forth in the Articles of Incorporation and the Declaration.

**Section 4.2 Term of Office.** At a meeting to be held in anticipation of the expiration of the Developer Control Period (as defined in the Declaration), the Members shall elect three (3) directors for terms of one (1), two (2) and three (3) years each, and at each annual meeting thereafter the Members shall elect one (1) director for a term of three (3) years. The length of the initial terms to be served by the elected directors shall be determined by lot.

**Section 4.3 Removal.** Any director may be removed from the Board, with or without cause, by a two-thirds (2/3) majority vote of all persons entitled to vote at a meeting of the Members at which a quorum is present. In the event of death, resignation or removal of a director, a successor shall be selected by the remaining Members of the Board and shall serve for the unexpired term of the predecessor.

**Section 4.4 Compensation.** No director shall receive compensation from the Association for any service he or she may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

**Section 4.5 Action Taken Without a Meeting.** The directors shall have the right to take any action in the absence of a meeting that they could take at a meeting by obtaining the written

approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

## **ARTICLE V**

### **NOMINATION AND ELECTION OF DIRECTORS**

**Section 5.1 Nomination.** After expiration of the Developer Control Period (as defined in the Declaration), nomination for election to the Board of Directors may be made either by a Nominating Committee, or nominations may be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting, and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or nonmembers.

**Section 5.2 Election.** Election to the Board of Directors shall be by secret written ballot. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

## **ARTICLE VI**

### **MEETINGS OF DIRECTORS**

**Section 6.1 Regular Meetings.** Regular meetings of the Board of Directors shall be held as determined by the Board, at such place and hour as may be fixed from time to time by resolution

of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day that is not a legal holiday.

**Section 6.2 Special Meetings.** Special Meetings of the Board of Directors shall be held when called by the president of the Association, or by any two directors, after not less than three (3) days' notice to each director.

**Section 6.3 Quorum.** A majority of the number of directors shall constitute a quorum for the transaction of business. Except as set forth in the Declaration of the applicable Bill of Assurance, every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

## **ARTICLE VII**

### **POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

**Section 7.1 Powers.** The Board of Directors shall have power to:

(a) adopt and publish rules and regulations governing the use of the Common Property and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights and right to use of the common facilities of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;

(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the Members by other provisions of these Bylaws, the Articles of Incorporation or the Declaration;

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

(e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

**Section 7.2 Duties.** It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth of the Members who are entitled to vote;

(b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(i) fix the amount of the annual assessment against each Lot;

(ii) send written notice of each assessment to every Owner subject thereto; and

(iii) foreclose the lien against any Lot for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same.

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a statement or certificate setting forth whether or not any assessment, and such other matters as set forth in the Declaration, has been paid. A reasonable charge may be

made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) Procure and maintain adequate liability and hazard insurance on property owned or controlled by the Association;

(f) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and

(g) Cause the Common Property to be maintained.

## ARTICLE VIII

### OFFICERS AND THEIR DUTIES

**Section 8.1 Enumeration of Officers.** The officers of this Association shall be a president, a vice president, a secretary and a treasurer, and such other officers as the Board may from time to time by resolution create.

**Section 8.2 Election of Officers.** The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

**Section 8.3 Term.** The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless such officer shall sooner resign, or shall be removed, or otherwise disqualified to serve.

**Section 8.4 Special Appointments.** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board may, from time to time, determine.

**Section 8.5 Resignation and Removal.** Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of

such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 8.6 Vacancies.** A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he or she replaces.

**Section 8.7 Multiple Offices.** The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one (1) of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

**Section 8.8 Duties.** The duties of the officers are as follows:

(a) **President.** The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

(b) **Vice President.** The vice president shall act in the place and stead of the president in the event of his or her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him or her by the Board.

(c) **Secretary.** The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep or oversee the keeping of appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board.

(d) **Treasurer.** The treasurer, either individually or by oversight of an agent of the Board, shall receive and deposit in appropriate bank accounts all moneys of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; and shall prepare an annual budget and a statement of income and expenditures to be presented as required by the Declaration, and deliver a copy of each to the Members as required by the Declaration.

The depositing and disbursement of funds, issuance of checks, the recording and publication of minutes of meetings, financial reporting and budget preparation may be delegated by the Board to a manager or other independent contractor or employee as deemed appropriate.

## ARTICLE IX

### COMMITTEES

**Section 9.1 Committees.** The Association shall acknowledge a Design Review Committee, as provided in the Declaration and to be designated by the Developer, and a Nominating Committee, as provided in these Bylaws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose. The Board may appoint its members to serve on any committee.

## ARTICLE X

### BOOKS AND RECORDS

**Section 10.1 Inspection.** The books, records and papers of the Association shall be subject to inspection by any Member subject to conditions set forth in the Declaration. The Declaration, the Articles of Incorporation, the Bylaws of the Association, an alphabetical list of Members entitled to notice, accounting records and meeting minutes shall be available for inspection by any

Member at the principal office of the Association, where copies may be purchased at reasonable cost.

## **ARTICLE XI**

### **AMENDMENTS**

**Section 11.1.** During the Developer Control Period (as defined in the Declaration), the Developer may amend these Bylaws at any time for any purpose. After expiration of the Developer Control Period, these Bylaws may be amended, at a regular or special meeting of the Members, by a vote of the lesser of (a) a majority of the Members, or (b) two-thirds (2/3) of the votes cast where a quorum is present. These Bylaws may not be amended in a manner that would make them inconsistent with the Declaration unless and until the Declaration has been amended.

**Section 11.2.** In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

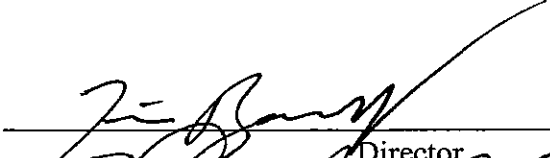
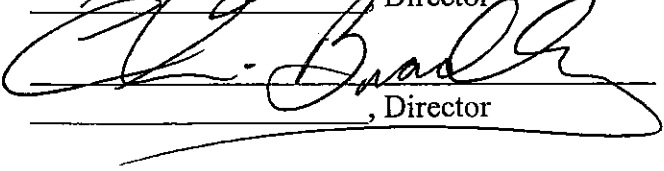
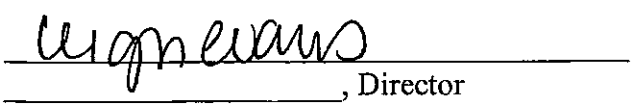
## **ARTICLE XII**

### **MISCELLANEOUS**

The fiscal year of the Association shall begin on the first (1<sup>st</sup>) day of January and end on December 31 of every year, except that the first fiscal year shall begin on the date of incorporation. In the event of any inconsistency in the provisions of these Bylaws and the Declaration, the terms of the Declaration shall prevail.



IN WITNESS WHEREOF, we, being all of the directors of the COTTAGES AT THE  
PARK POA, INC., have hereunto set our hands as of June 29, 2021.

  
\_\_\_\_\_  
Director  
  
\_\_\_\_\_  
Director  
  
\_\_\_\_\_  
Director

**EXHIBIT D**

**Bill of Assurance**  
(attached hereto)

**BILL OF ASSURANCE**  
**(Cottages at the Park POA, Inc.)**

THIS **BILL OF ASSURANCE** is executed on June 29, 2021, by **LANDMARC CUSTOM HOMES, LLC**, an Arkansas limited liability company (“**Developer**”) and joined by the owners of lots identified in the signature pages hereto (collectively, the “**Owners**”), and made effective as of the Effective Date (as defined below).

**RECITALS:**

A. Except for the Lots owned by the Owners, each who are joining in this Declaration, Developer owns the lands more particularly described on **Exhibit A** attached hereto and made a part hereof (“**Property**”), part of which (that being Phase I) being shown on the Revised Final Plat of Cottages at the Park Phase 1, Springdale, Benton County, Arkansas, recorded on May 27, 2021, File No. L202139930 (the “**Plat**”). Phase II and Phase III, as legally described on Exhibit A attached hereto, will be subject to a separate plat(s), but which shall be deemed incorporated herein at the time they are filed of record.

B. The lands shown on the Plat are subject to that certain Declaration of Covenants and Restrictions (the “**Declaration**”), which this Bill of Assurance is attached as **Exhibit D**, and shall be forever known as “Lots 1 through 180, Cottages at the Park, Springdale, Benton County, Arkansas” (“**Cottages at the Park**”).

NOW, THEREFORE, in order to enhance the value of Cottages at the Park, Developer, for and in consideration of the benefits to accrue to its, its successors and assigns, hereby establishes this Bill of Assurance for Cottages at the Park:

1. **Covenants and Restrictions.** The lands platted pursuant to the Plat and this Bill of Assurance and any interest therein shall be held, owned and conveyed subject to and in conformity with the Declaration and the covenants and restrictions set forth herein. Subject to the terms and conditions herein, every deed of conveyance of any lot in Cottages at the Park describing the same by the number shown on the Plat shall always be deemed a sufficient description thereof.

2. **Definitions.** The following terms and phrases used in this Bill of Assurance are defined as follows:

(a) “**Association**” means Cottages at the Park POA, Inc., an Arkansas nonprofit corporation, established pursuant to the Declaration.

- (b) **“Board of Directors”** means the Board of Directors of the Association.
- (c) **“Business Day”** means any day of the week other than Saturday, Sunday or a day in which commercial banks are closed for business in Springdale, Arkansas.
- (d) **“Common Property”** or **“Common Properties”** has the meaning set forth in the Declaration.
- (e) **“County”** means Benton County, Arkansas.
- (f) **“Developer”** means Landmarc Custom Homes, LLC, an Arkansas limited liability company.
- (g) **“Developer Control Period”** has the meaning set forth in the Declaration.
- (h) **“Declaration”** has the meaning set forth in the Recitals.
- (i) **“Design Guidelines”** means the “Design Guidelines and Requirements” attached hereto as **Exhibit B** and made a part hereof, as amended from time to time.
- (j) **“Design Review Committee”** means the Design Review Committee established pursuant to the Declaration.
- (k) **“Development Permit”** has the meaning set forth in Section 5 below.
- (l) **“Effective Date”** means the date this Bill of Assurance is filed in the Benton County Circuit Clerk’s office.
- (m) **“Improvement”** means and includes all residences, buildings and roofed structures, garage doors, parking areas, fences, walls, hedges, mass plantings, poles, driveways, swimming pools, lakes, tennis courts, signs, changes in any exterior color or shape, glazing or reglazing of exterior windows with mirrored or reflective glass, and any other new exterior construction or exterior improvement that materially alters the appearance of the property and which may not be included in any of the foregoing. The definition does not include garden plant, shrub or tree replacements or any other replacement or repair of any magnitude that does not materially change exterior colors or exterior appearances.
- (n) **“Lot”** means Lots 1 – 180 shown on the Plat, and any additional residential lots that are hereafter subjected to this Bill of Assurance or the Declaration. “Lot” also includes the following: Lots 13 - 14 (greenspace/trail/unbuildable) and Lot 60 (swimming pool/clubhouse).
- (o) **“Owner”** means any Person, whether one or more, who or that holds record title to (or upon the existence of a life estate, the holder of such estate 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.

(p) **“Person”** means an individual, firm, corporation, partnership, limited liability company, property owners association, trust, or any other legal entity, or any combination thereof.

(q) **“Phase”** refers to Phase I, Phase II, or Phase III, individually. **“Phases”** refers to Phase I, Phase II, and Phase III, collectively.

(r) **“Phase I”** means Lots 1 through 59.

(s) **“Phase II”** means Lots 61 through 128.

(t) **“Phase III”** means Lots 129 through 180.

(u) **“Plat”** means the plat of Cottages at the Park described in the Recitals above.

3. **Utility Easements.** The Plat reflects certain easements for utilities. Developer hereby donates and dedicates the utility easements to and for the use of public utilities, without limiting the generality of the foregoing, electric power, gas, telephone, water, sewer, and cable television with the right hereby granted to the Persons engaged in the supplying of such utilities to use and occupy such easements, and to have free ingress thereto and egress therefrom for the installation, operation, maintenance, repair and replacement of such underground utility services and all improvements, including required surface improvements, necessary for such services. The filing of this Bill of Assurance and Plat for record in the office of the Circuit Clerk and Recorder of Benton County shall be a valid and complete delivery and dedication of the aforementioned easements subject to the limitations herein set out. No trees, shrubbery, incinerators, structures, buildings, fences or similar improvements shall be grown, built or maintained within the area of such utility easement except as approved by the Board of Directors. In the event any trees, shrubbery, incinerators, structures, buildings, fences or similar improvements are grown, built or maintained within the area of such easement, no Person engaged in supplying public utility services shall be liable for the destruction of same in the installation, maintenance, repair or replacement of any utility service located within the area of such easement.

#### 4. **Streets and Roads; Sidewalks; Lighting.**

(a) **Streets.** All streets in Cottages at the Park subdivision are and shall be public streets. The garage on each Lot will be constructed at the rear of the residence on such Lot and will be accessible via an access alleyway to the rear of the Lot (the **“Access Alleyways”**). No overnight parking is allowed on any streets (including the Access Alleyways) in Cottages at the Park, and no parking is allowed at any time in the Access Alleyways.

(b) **Sidewalks.** All streets in Cottages at the Park other than the Access Alleyways shall have sidewalks along each side of such street. Each Lot shall have a sidewalk that extends from the entrance of the residence on the Lot to the sidewalk that extends across the front of the Lot.

(c) **Lighting.** All lighting along streets in Cottages at the Park shall be maintained by the Association.

## 5. **Design Review; Development Permits.**

(a) **Development Permit Required.** No Improvement of any kind shall be constructed, erected, placed, altered, added to, reconstructed, exterior repainted, or permitted to remain upon any Lot, and no construction activity, grading, removal of trees or significant landscaping shall be performed (other than replacement of garden plants, shrubs and trees that does not materially change exterior appearances) unless a Development Permit is issued by the Design Review Committee as provided for in the Declaration.

(b) **Compliance.** Compliance with the Design Guidelines, or a variance or waiver therefrom, is required for the issuance of a Development Permit.

(c) **Amendment of Design Guidelines.** The Design Guidelines may be amended at any time by a vote of not less than seventy-five percent (75%) of the members of the Board of Directors.

(d) **Variance from Design Guidelines.** The Design Review Committee may grant variances from the Design Guidelines for the purposes and in the manner more specifically set forth therein.

(e) **Limitation on Liability.** Neither the Developer, the Association, the Board of Directors, the Design Review Committee nor any officers, members, employees and agents thereof shall be liable, in damages or otherwise, to anyone submitting an application or request for a Development Permit or to any owner of land affected by this Bill of Assurance arising out of or in connection with the approval, disapproval, variance, modification or waiver of any plans and specifications.

6. **Use of Land.** Lots 1 through 180, as shown on the Plat, shall be held, owned and used only as residential building sites. No structures shall be erected, altered, placed or permitted to remain on such Lots other than a single detached single-family residence and associated improvements and structures as more particularly permitted herein.

7. **Unbuildable Lots, Greenspace, and Swimming Pool.** Lots 13, 14, and 60 are unbuildable Lots. The Association shall maintain any improvements located in such areas at its sole cost. No Improvements shall be placed on such Lots without the prior approval of the Board of Directors and, if necessary, the appropriate agencies of the City of Springdale. At a date selected in Developer's sole discretion, Developer will construct a swimming pool and related amenities as determined by the Developer on Lot 60, and the Association shall implement rules and regulators governing such amenities.

8. **Delegation of Authority.** Developer shall have the right, but not the obligation, by a written instrument recorded in the Office of the Recorder for Benton County, Arkansas, to delegate, convey and transfer to the Association and/or any successor developer all authority, rights, privileges and duties reserved by Developer in this Bill of Assurance. The Developer will not be deemed to have transferred rights, privileges or duties in connection with a sale of a portion of the Property unless the Developer states in writing signed by the Developer that the Developer is transferring such rights.

9. **Obligation for Assessments; Membership in Association.** By acceptance of a deed covered by this Bill of Assurance, each owner of a Lot within Cottages at the Park shall be deemed to (i) acknowledge that such property is subject to the Declaration and (ii) covenant and agree to pay any assessments, charges and/or special assessments which may hereinafter be levied by the Association. All Owners of Lots within Cottages at the Park will be members of Cottages at the Park POA, Inc. as provided for in the Declaration.

10. **Setback Requirements.** No residence shall be located on any Lot (i) nearer than twelve feet (12') to the front Lot line abutting the street right of way, (ii) nearer than twenty-five feet (25') to the rear Lot line, or (iii) nearer than five feet (5') from each exterior side Lot line. A variance from the setback requirements specified in this Section 10 may be granted if approved by majority vote of the Design Review Committee and the applicable governmental authorities for the City of Springdale, or such other regulatory agency as may succeed to their functions.

11. **Minimum Square Feet Area.** No residence shall be constructed or permitted to remain on any Lot in Cottages at the Park unless the finished heated living area, exclusive of porches, patios, garages, breezeways, exterior stairways, porte cocheres, storage areas and outbuildings, equals or exceeds 1,800 square feet, with respect to residences constructed on a Lot in Phase I, Phase II, and Phase III.

12. **Mechanical Structures; Height of Structures; Solar Panels.** All mechanical structures of any kind, including, but not limited to, any radio or television antenna or tower or roof-mounted mechanical equipment, shall be screened from public view using materials approved by the Association. No structure shall be built or permitted to remain upon a Lot if the height of such structure is higher than the ridge line of the residence upon such Lot or visible from the street which such residence fronts. Solar panels or other devices designed to harness solar power for any residence on a Lot are not permitted and shall not be placed on or about any Lot or residence; provided, however, solar powered landscape lighting and other small-scale, exterior powered devices that do not require a solar panel of a size used to harness solar power for a residence shall be permitted so long as their appearance is not incompatible with or detract from the overall aesthetic of the subdivision.

13. **Frontage.** Except with a waiver or variance from the Design Review Committee, all residences erected on one or more Lots in Cottages at the Park shall front the principal street adjacent to the Lot and present a good frontage on all abutting streets.

14. **Utilities/Mailboxes.** Water, sewer, electrical, gas, telephone and cable television utility lines are or shall be located underground in utility easements and in the rights of way of streets and roads. Connections from the Lots to the underground utility lines shall be underground. All such connections shall comply with all applicable standards of the provider of the service, the State of Arkansas, and any other regulatory agency with jurisdiction. Developer shall select locations for mailboxes, in accordance with US Postal Service and City of Springdale regulations, and hereby reserves a perpetual easement on, over and across applicable Lots for such purpose.

15. **Commercial Structures.** Except for the model homes specified in this Section 15, no building or structure of any type may ever be placed, erected or used for business, professional, trade or commercial purposes on any portion of any Lot. The Developer may maintain one (1)

model home in each Phase for marketing and sales purposes during the Developer Control Period with respect to that Phase. If the Developer Control Period ends with respect to a Phase, the Developer shall cease the use of any structure in that Phase as a model home within 180 days after the end of the Developer Control Period with respect to that Phase. The Developer may continue to maintain a model home in each Phase for which the Developer Control Period has not ended. The prohibition in the first sentence of this Section 15 does not apply to any business or structure that may be placed on any Lot or portion of a lot that is used exclusively by a public utility company in connection with the furnishing of public utility services to the subdivision.

**16. Outbuildings Prohibited.** No outbuildings or other detached structure appurtenant to the residence (including, without limitation, shops, storage sheds, detached garages, mother-in-law suites, or other accessory structures, whether temporary or permanent) may be erected on any Lot without a Development Permit issued by the Design Review Committee.

**17. Noxious Activity.** No noxious or offensive activity shall be carried on upon any Lot, nor shall any garbage, trash, rubbish, tree limbs, pine straw, leaves or cuttings, ashes or other refuse be thrown, placed or dumped upon any vacant lot, street, road or common areas, nor on any Lot unless placed in a container suitable for garbage pickup; nor shall anything ever be done that may be or become an annoyance or nuisance to the neighborhood. No light that is unreasonably bright or causes unreasonable glare shall be emitted from any Lot. No unreasonably loud or annoying noises or noxious or offensive odors shall be emitted beyond the Lot lines of any Lot.

**18. Trash Storage.** All garbage and trash shall be placed in sanitary capped containers and located inside a garage or behind the privacy fenced area and located near the utility infrastructure serving each Lot until time for pick-up so as to not be visible from any street or adjoining property. Any such screened or walled-in area shall be landscaped to soften its impact. Collection of garbage and trash will occur along the Access Alleyways, and no garbage and trash shall be set out at the front of a Lot. Garbage and trash shall be set out no earlier than twelve (12) hours before the time scheduled for pickup, and all trash containers shall be moved back to the enclosed area specified in the first sentence of this Section 18 within twelve (12) hours after pickup of the garbage and trash occurs.

**19. Oil and Mineral Operations.** No oil or gas drilling, oil or gas development operations, oil or gas refining, quarrying or mining operations of any kind shall be permitted upon or in any building site, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot or other lands subject to this Bill of Assurance. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot or other lands subject to this Bill of Assurance.

**20. No Existing Structure or Mobile Home.** Other than work trailers and temporary structures used for either storage or office space by Developer or a home builder during construction, no existing, erected building or structure of any sort, including without limitation any structure commonly known as a "mobile home", "house trailer," "manufactured home," or similar structure may be moved onto, placed or used on any Lot.



21. **Temporary Structure.** No trailer, basement, tent, shack, garage, barn or other outbuilding shall at any time be used for human habitation, temporarily or permanently, nor shall any structure of a temporary character be used for human habitation.

22. **Fences.** No fences, enclosure or part of any building of any type or nature whatsoever shall ever be constructed, erected, placed or maintained closer to the front lot line than the building setback line applicable and in effect as to each Lot, or within any drainage easement. No fence shall be constructed without Owner first obtaining a Development Permit issued by the Design Review Committee. Notwithstanding the forgoing, any fence or portion thereof that is removed, damaged, or destroyed shall be replaced with a fence identical in material and appearance.

23. **Property Lines and Boundaries.** Iron pins have been set on all lot corners and points of curves, and all lot dimensions shown on curves are chord distances, and all curve data as shown on the Plat filed herewith is centerline curve data. In the event of minor discrepancies between the dimensions or distances as shown on the Plat and actual dimensions and distances as disclosed by the established pins, the dimensions and distances shown on the Plat shall control.

24. **Driveway Obstructions.** No obstruction or vehicle shall be placed in the street gutter or in any alleyway.

25. **Lot Subdivision Prohibited; Exception.** No Lot shall be subdivided except upon the prior written approval of the Association.

26. **Irrigation/Mowing/Landscaping.**

(a) **Irrigation; Mowing.** At its expense, the Association will (a) irrigate, mow, trim, and will annually fertilize and perform semi-annual weed treatments on all front yards, and (b) mow side and rear yards if Owner allows unrestricted access to the side and rear yards. If an Owner restricts access to the side or rear yard on its Lot, such Owner shall mow such restricted part of the yard on the Lot.

(b) **Landscaping.** At its expense, the Association shall maintain all Developer or contractor installed landscaping on each Lot which is installed at the time that a residence is constructed on such Lot. If an Owner of a Lot installs landscaping in addition to the landscaping existing at the time that the residence was constructed on that Lot, such Owner shall maintain such additional landscaping. No landscaping shall be installed on a Lot in addition to the landscaping existing at the time a residence is constructed on such Lot unless the Owner of the Lot obtains a Development Permit for the additional landscaping. The Design Guidelines may include a provision requiring the Owner to deliver to the Association or a third party escrow agent a deposit for the purpose of securing completion of the landscaping approved in the Development Permit. Developer hereby retains a non-exclusive easement for the benefit of the Association to enter upon the subject Lot and to install suitable landscaping improvements in the event the Owner fails to complete the landscaping Improvements authorized by the Development Permit. In such event, any funds deposited by the Owner may be used to pay the expenses incurred by the Association to complete the landscaping. If the amount of the deposit is insufficient to satisfy the entire cost of completing the landscaping installed by the Association, the Association may make demand for

the excess cost of the landscaping and the Owner shall pay the Association within ten days thereafter. All amounts due from the Owner shall accrue interest from the date of demand until payment at the highest rate allowed by law. The Owner shall be responsible for all attorneys' fees and expenses, including litigation expenses, incurred by the Association in collecting amounts due from the Owner and the enforcement of Owner's rights under this section.

**27. Restrictions Run With Land; Right To Enforce.** Subject to the terms and conditions herein, the restrictions herein set forth shall run with the land and shall bind the present owner, its successors and assigns. All parties claiming by, through or under the Developer shall be deemed to covenant with the owner of the Lots hereby restricted, and its successors and assigns, to conform to and observe these covenants and restrictions. No covenant or restriction herein shall be personally binding upon any corporation, Person or Persons, except with respect to breaches committed during its, his or their term of holding title to said land. Developer, its successors and assigns, and also the owner or owners of any of the Lots hereby restricted, shall have the right to sue for and obtain an injunction, to prevent the breach of or to enforce the observance of the restrictions above set forth, in addition to ordinary legal action for damages and failure by any owner or owners of any Lot or Lots in this subdivision to observe any of the restrictions herein. Any delay in bringing such action shall, in no event, be deemed to be a waiver of the right to do so thereafter. No waiver of any breach or failure to enforce any obligation of any agreement or provisions herein contained shall be deemed a waiver of any preceding or succeeding breach thereof or of any other agreement or provisions herein contained. The right to obtain an injunction or other equitable remedy shall be available notwithstanding the availability of an adequate remedy at law. The owner or owners of any Lot against whom an enforcement action is commenced waives the right to assert the availability of an adequate remedy at law as a defense to an injunction or other equitable remedy by accepting title to a Lot restricted hereby.

**28. Modification of Restrictions and Discretion of Board of Directors.**

(a) Amendment Before Close of First Sale. Prior to the delivery of the first deed to a Lot in a Phase to a Person unaffiliated with the Developer, this Bill of Assurance, any recorded plat(s) of the Property, and any amendment(s) or supplement(s) to either may be amended in any respect or revoked by the execution and recordation in the real estate records of Benton County, Arkansas by the Developer, and any mortgagee of record, of an instrument amending, supplementing or revoking this Bill of Assurance, any recorded plat(s) or any amendment(s) or supplement(s) to either. This Section 28(a) will be applied separately with respect to each Phase, meaning, for example, that if the Developer sells a Lot in Phase I to a Person unaffiliated with the Developer prior to selling any Lot in Phase II or Phase III, then the Developer may still file amendments, supplements, or revocations with respect to Phase II or Phase III in accordance with this Section 28(a).

(b) Amendment After Close of First Sale. After the period for amendment under Section 28(a) with respect to a Phase has ended, the following amendment procedures will apply with respect to that Phase:

(i) Amendment During Developer Control Period. So long as a Developer Control Period is ongoing with respect to that Phase, the Developer may amend, supplement, or revoke in any respect this Bill of Assurance with respect to such Phase, any

recorded plat with respect to such Phase, or any portion of either with respect to such Phase, without the vote or written consent of the Owners or the Association.

(ii) Amendment After Developer Control Period. After the expiration of the Developer Control Period with respect to such Phase, any amendment, supplement, or revocation of this Declaration, any recorded plat of the Property, or any amendment or supplement to either, except as otherwise provided in this Bill of Assurance, the Declaration, or the laws of the State of Arkansas, shall require an instrument signed by the Owners of more than sixty-five percent (65%) of the Lots in Cottages at the Park (excluding the Common Properties), including votes of the Developer for Lots owned by it, provided that any such amendment or supplement shall in no way modify or eliminate the reserved rights of the Developer set out in this Bill of Assurance or Article III or Article X of the Declaration.

(c) Effective Date. Any amendment, supplement, or revocation of this Bill of Assurance, any recorded plat of the Property, or any amendment or supplement to either, shall not be effective until such amendment, supplement, or revocation is duly recorded.

(d) Additional Reserved Rights of Developer. To the extent that the Developer has reserved rights to amend the Declaration under Article III of the Declaration, the Developer reserves the same rights to amend this Bill of Assurance.

(e) Reserved Rights of Developer Not Subject to Amendment. The terms of this Section 28 and the reserved rights of the Developer under this Bill of Assurance and the Declaration, including but not limited to the rights set out in this Section 28 and the Developer's reserved rights set out in Article III of the Declaration, shall not be altered, impaired, prejudiced, or eliminated by the Owners by an amendment or supplement to this Bill of Assurance, any recorded plat of the Property, or any amendment or supplement to either, unless such amendment or supplement is executed by Developer.

29. **Duration.** Each covenant, provision and restriction in this instrument, unless expressly provided otherwise, shall remain in full force and effect for a term of forty (40) years from the date this Bill of Assurance is recorded, after which time the covenants, provisions and restrictions in this Bill of Assurance shall be automatically extended for successive periods of ten (10) years unless an instrument terminating such covenants, provisions and restrictions signed by the then Owners of sixty-five percent (65%) of the Lots (excluding the Common Properties) has been recorded prior to the commencement of any ten (10) year period.

30. **Attorney Fee.** In any legal or equitable proceeding for the enforcement or to restrain the violation of this instrument or any provisions thereof, by reference or otherwise, the Association shall be entitled to attorney fees in such amount as the court finds reasonable. All remedies provided for herein, or at law or equity, shall be cumulative and not exclusive.

31. **Severability.** Invalidation of any restriction set forth herein or any part thereof by any order, judgment or decree of any court, or otherwise, shall not invalidate or affect any of the other restrictions or any part thereof as set forth herein, but they shall remain in full force and effect.

32. **Exhibits.** The exhibits to this Bill of Assurance are hereby incorporated by reference as if fully set out herein.

33. **Construction of Instrument.** This Bill of Assurance shall not be construed more strictly against a party merely by virtue of the fact that it may have been prepared by counsel for a party. The headings of various Sections in this Bill of Assurance and all exhibits and attachments hereto are for convenience only, and are not to be utilized in construing the content or meaning of the substantive provisions hereof. Section and Exhibit references are to Sections of and Exhibits to this Bill of Assurance unless otherwise specified. All references to instruments, documents, contracts and agreements are references to such instruments, documents, contracts and agreements as the same may be amended, supplemented and otherwise modified from time to time, unless otherwise specified. The words "hereof", "herein" and "hereunder" and words of similar import when used in this Bill of Assurance and its exhibits shall, unless otherwise specifically stated, refer to this instrument as a whole and not to any particular provision of this Bill of Assurance.



**EXHIBIT A****Legal Description****Phase 1**

Lots 1 through 59, Revised Final Plat of Cottages at the Park Phase 1, Springdale, Benton County, Arkansas, recorded on May 27, 2021, File No. L202139930.

**PHASE II DESCRIPTION - PART OF PARCEL NO. 21-00167-556:**

A PART OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION TWENTY (20), TOWNSHIP EIGHTEEN NORTH (T-18-N), RANGE THIRTY WEST (R-30-W) OF THE FIFTH PRINCIPAL MERIDIAN, CITY OF SPRINGDALE, BENTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 20, SAID POINT BEING A FOUND RAILROAD SPIKE IN WEST COUNTY LINE ROAD; THENCE ALONG THE SOUTH LINE OF SAID SW 1/4, S86°35'37"E A DISTANCE OF 659.90 FEET TO A FOUND RAILROAD SPIKE IN WEST COUNTY LINE ROAD; THENCE LEAVING SAID SOUTH LINE, N02°27'18"E A DISTANCE OF 705.55 FEET TO THE POINT OF BEGINNING; THENCE N02°27'18"E A DISTANCE OF 654.06 FEET; THENCE S87°32'42"E A DISTANCE OF 987.96 FEET; THENCE S02°22'15"W A DISTANCE OF 654.06 FEET; THENCE N87°32'42"W A DISTANCE OF 988.92 FEET TO THE POINT OF BEGINNING, CONTAINING 14.84 ACRES, MORE OR LESS. SUBJECT TO THE RIGHT OF WAY OF DOWNUM ROAD ON THE EAST SIDE THEREOF.

**PHASE III DESCRIPTION - PART OF PARCEL NO. 21-00167-556:**

A PART OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION TWENTY (20), TOWNSHIP EIGHTEEN NORTH (T-18-N), RANGE THIRTY WEST (R-30-W) OF THE FIFTH PRINCIPAL MERIDIAN, CITY OF SPRINGDALE, BENTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 20, SAID POINT BEING A FOUND RAILROAD SPIKE IN WEST COUNTY LINE ROAD; THENCE ALONG THE SOUTH LINE OF SAID SW 1/4, S86°35'37"E A DISTANCE OF 659.90 FEET TO THE POINT OF BEGINNING, SAID POINT BEING A FOUND RAILROAD SPIKE IN WEST COUNTY LINE ROAD; THENCE LEAVING SAID SOUTH LINE, N02°27'18"E A DISTANCE OF 705.55 FEET; THENCE S87°32'42"E A DISTANCE OF 988.92 FEET; THENCE S02°22'15"W A DISTANCE OF 721.99 FEET; THENCE N86°35'37"W A DISTANCE OF 990.12 FEET TO THE POINT OF BEGINNING, CONTAINING 16.21 ACRES, MORE OR LESS. SUBJECT TO THE RIGHT OF WAY OF COUNTY LINE ROAD ON THE SOUTH SIDE THEREOF AND DOWNUM ROAD ON THE EAST SIDE THEREOF.

## **EXHIBIT B**

### **Design Guidelines And Requirements for Cottages at the Park**

#### **1. Design Standards – General.**

Design policies, guidelines and requirements have been formulated in an attempt to promote, improve and maintain the design quality of the individual elements that will make up Cottages at the Park. It is not the intent that these guidelines be used to restrict individual taste or preference but rather to ensure a high standard of environmental beauty and aesthetic quality.

#### **2. Design Duplication.**

2.1 The Design Review Committee (the “Committee”) encourages Lot owners (individually, an “Owner” and collectively, the “Owners”) to plan their structures with emphasis on relationship to existing site conditions and neighboring structures. The Committee encourages all Owners to obtain assistance from architects and other design professionals in planning their homes.

#### **3. Site Planning and Use.**

3.1 General. The site design, architecture and landscaping of a Lot should work as a unit. In locating each element or structure on a Lot, every effort shall be made to preserve natural features of the site and to prevent obscuring the principal views of surrounding properties.

3.2 Location of Improvements. The location of structures and improvements should take advantage of existing features of the terrain, changes in grade, tree locations, and orientation to sun and views. Walks, stairs, terraces, patios, exterior paved areas, fences or walls shall be unobtrusive and shall be designed as an integral part of the overall design.

#### **3.3 Accessory Facilities.**

3.3.1 All garbage or trash containers shall be located inside a garage or behind the privacy fenced area and located near the utility infrastructure serving each Lot so as to not be visible from any street or adjoining property. Any such screened or walled-in area shall be constructed in such a manner as to limit accessibility and landscaped to soften their impact. Exterior walls of accessory buildings shall be compatible with the materials and integral with the forms of the residence.

3.3.2 No outdoor clothes drying shall be allowed.

3.3.3 Utility and service boxes, miniature TV dishes and similar equipment must be shielded from public view. Exposure to the skyline of utility vent stacks, air handling equipment, etc., shall be reduced to a minimum. All TV antennas must be approved by the Committee. Exterior air conditioning compressors, water softeners, pool mechanical equipment and similar items shall be screened from public view by means of fencing, substantial landscaping or other approved methods.

### 3.4 Utilities.

3.4.1 All utility lines in Cottages at the Park will be installed underground. All service connections from trunk lines and connections within the Lot to accessory buildings and facilities shall be underground. Overhead services will not be permitted except as approved for temporary services during construction.

3.4.2 Meters shall be located in a manner so as to be inconspicuous. Transformers and gas meters shall be appropriately screened from public view.

### 3.5 Grading and Drainage.

3.5.1 No bulldozing, cutting, clearing or disturbing of any tree, or excavation of lakes or ponds shall be commenced until a Development Permit is issued by the Committee after review and approval of the Final Permit Application showing the nature, kind, shape and location of work.

3.5.2 Cuts and fills should be designed to complement the natural topography of the site. Cut or fill areas shall be replanted with grass, or landscaping or plant materials which shall blend with the landscaping plan or with native vegetation.

3.5.3 Surface drainage shall be designed to employ natural drainage patterns and to avoid adverse impact on neighboring property. Runoff from impervious surfaces such as roofs and pavement areas shall be directed to natural or improved drainage channels or dispersed into shallow sloping vegetated areas.

3.5.4 Paved areas shall be so designed that surface waters shall be collected at intervals in a manner that will not obstruct the movement of vehicular or pedestrian traffic and will avoid pooling and puddles in paved or swale areas.

3.6 Fencing. All fences shall be of commercial quality and must be well maintained. The use of shrubs and other vegetation along with approved fencing materials for privacy screening is not discouraged.

3.7 Mailboxes. The Committee will select a mailbox for use in Cottages at the Park. No other mailbox shall be used or approved.

3.8 Chimneys. Chimneys shall be constructed of brick or stone masonry or metal double-insulated flue pipe covered with wood, stucco, concrete, and masonry. Flat tops are preferred and side venting of the flue (with a flat cap and spark arrestor) is recommended. Exposed metal chimneys are not permitted.

**4. Residential Building Area Requirements.** The minimum square footage requirements for Cottages at the Park are contained in the Bill of Assurance. However, mass and size of the structure is a part of the aesthetic appearance and cannot be isolated from such aesthetics. In approving or disapproving plans for residences, the Committee will consider the square footage as



a factor along with the other architectural features of the structure. The square footage set forth in the Bill of Assurance is the minimum requirement, but may be adjusted downward on a case-by-case basis by the Committee if the Committee, in its sole discretion, determines that the architectural features or aesthetic quality is sufficient to warrant such an adjustment. In the event the Committee determines that there are insufficient architectural features to bring the residence within the aesthetic quality of the proposed neighborhood, the square footage may be required to be adjusted accordingly.

## **5. Building Construction – General.**

5.1 Building Height Restrictions. No residence shall exceed two and one-half stories in height.

5.2 Exterior Design. The overall building design will be evaluated for aesthetic appearance in terms of the combination of mass, material, texture, color and detail.

5.2.1 The exterior materials and texture should give a feeling of unity. Directional changes and the application of secondary materials for effect must be accomplished with particular skill so that it becomes an integral part of the design concept, not mere exterior surface decoration. The same architectural character and material shall be carried throughout the exterior of the house, thereby giving regard to total design and not just frontal treatment.

5.2.2 Exterior doors, windows and other such openings shall be designed to afford a consistent, harmonious appearance. Vertical and horizontal lines shall be related throughout in the window placement to create paneled effects or to provide pleasing designs; windows should not be arbitrarily placed without regard to the total design.

5.2.3 All exterior service elements such as air conditioner compressors shall be shown on the plans and placed in an inconspicuous location.

5.3 Exterior Wall Materials. Exterior wall materials must be high quality, upscale materials, and should convey a sense of thoughtful design and well crafted construction. Certain finishes and combinations thereof are more successful than others at conveying these qualities. New building materials as they are developed or become available will be given special consideration provided their use harmonizes with the community development. The following materials may be used for exterior walls:

### **5.3.1 Primary Wall Materials:**

1. Brick,
2. Stone (including limestone and slate),
3. Manufactured stone,
4. Wood (painted or stained),
5. Stucco (no Dryvit or similar finish systems will be approved),
6. Concrete siding (such as hardy board), or
7. Other materials reviewed on their individual merit and approved by the Committee

5.3.2 **Materials where Primary Wall Materials unusable due to location (eaves, dormers, overhangs, etc.)**

1. Wood (painted or stained),
2. Concrete hardy board,
3. Stucco.

The following materials are not considered to be appropriate and may be rejected by the Committee: vinyl siding, asphalt siding, raw or job painted metal siding, concrete or concrete block as a total façade, transite shingles, log siding, plastics, and other products or finishes that give the appearance of a lack of quality.

5.4 **Number of Wall Materials.** Use of multiple exterior wall materials can lend visual interest to a structure. Too many materials can create a garish appearance. Exterior walls in Cottages at the Park should normally consist of no more than two materials.

5.5 **Exterior Color and Finishes.** The use of various colors shall generally be to accent areas.

5.6 **Window Materials.** Windows must be constructed of wood (or wood covered), vinyl or other approved material.

5.7 **Roof Structures.**

5.7.1 Roof structures constitute an important element of a structure. The following roof materials are permitted:

1. Asphalt composition architectural shingles, consistent tone and
2. Metal roofing products.

Other roofing materials will be reviewed by the Committee only on their individual merit, and are subject to rejection.

5.7.2 A minimum roof pitch of 8" / 12" is generally required for the main building area except for architectural styles that require less pitch to maintain authenticity. Flat roofs are not recommended, but will be reviewed on their individual merit.

**6. Landscaping.**

6.1 Cottages at the Park's natural settings offer a unique environment that should be recognized as a framework for development. The basic objectives of landscaping and revegetation are to preserve the land in its natural state insofar as possible, to enhance the new structures and improvements to strengthen vistas, to direct pedestrian and vehicular traffic, and to screen visually objectionable elements such as service areas, storage yards and utilities from public view.

6.2 Development Permit issuance may be conditioned upon landscaping designed to reduce the visual height of a tall structure, to provide erosion control, or for other reasons. A

landscaping plan must be submitted with all Development Permit applications. A budget for landscaping costs shall be submitted with the application for a Development Permit for a new structure.

6.3. Upon the issuance of the Development Permit, and as a condition thereof (unless waived by the Design Review Committee), the Owner (if the Owner is not the Developer) shall deposit \$1,000 with the Association, which shall be held as security for the completion of the approved landscaping in accordance with the Bill of Assurance. The deposit shall be returned to the Owner on demand upon completion of the landscaping in accordance with the Development Permit. The Association may, but shall have no obligation, to deposit such funds in an interest bearing account and to deliver any interest earned to the Owner upon return of the Deposit. If the Owner fails to complete the approved landscaping prior to the deadline set forth below, the Association may exercise its rights under the Bill of Assurance and use the deposited amount, and any interest thereon, to complete the approved landscaping or to install other suitable landscaping.

6.4 Tree and natural landscape removal shall be performed only to the extent necessary to satisfy the landscape requirements of these Design Guidelines. Ground areas disturbed by grading shall be replanted at the earliest opportunity, or otherwise retained by placement of rip-rap or visually aesthetic material to provide for erosion control.

6.5 All areas (other than areas that will remain natural) outside of a building must be improved and landscaped in accordance with an approved landscaping plan using grass, approved ground cover, shrubs, trees and/or approved alternatives.

6.6 The type and extent of grassing must be shown on landscape plans submitted to the Committee.

6.7 Irrigation facilities shall be provided where necessary for proper landscape maintenance. Irrigation system method shall be shown on the landscape plan.

6.8 No existing tree shall be cut, removed or otherwise disturbed without prior approval of the Committee.

6.9 Builders and contractors shall exercise great care to minimize the damage to root systems of existing trees. Drip lines of existing trees may be fenced during construction. Insofar as possible, trenches shall be located in such a way that no tree roots will be damaged. No fires shall be permitted in tree areas; vehicles shall not be parked or driven near trees during construction operations.

6.10 Where fill is placed around trees which are to remain, to such depth so as to cause possible damage or deterioration of the tree, suitable tree wells, root drains, or other acceptable methods shall be used to guarantee the life of the tree.

6.11 Lot owners are encouraged, where possible, to transplant healthy trees requiring removal to other locations in the landscaping plan.

6.12 All landscaping work shall be completed within three months after taking occupancy of the residence.

6.13 Children's outdoor play areas and equipment, including without limitation, swing sets, slides, basketball goals, swimming pools, seesaws, and similar items, may be constructed, located or placed on a Lot with the prior written consent of the Committee. This requirement shall apply without regard to the material of which the equipment is constructed or its degree of portability. The Committee shall have the right, but not the obligation, to enter a Lot without liability for trespass or conversion and remove any such unapproved equipment or play areas after twenty-four hours written notice to the Lot owner.

## **7. Signs.**

7.1 All signs require the written approval of the Design Review Committee. All signs must have their own support posts. No sign or any supports or braces for such sign shall be nailed, spiked or otherwise attached to a tree. Such conditions shall apply to all signs, including lettering or designs painted or attached to the surface of a building for advertising or identification purposes.

7.2 Absent affirmative action by the Committee to the contrary, a Lot owner or his agent may place one sign on his or her Lot advertising the property for sale, which sign shall not exceed four square feet in total area, and shall not place any other signs on any Common Area. The standard signs of area real estate brokers may be used within Cottages at the Park or the Committee may elect to create a uniform form of sign, designating its size and color, to be used by all Lot owners and real estate brokers for property sales in the neighborhood. Signs advertising any political party or political office shall not be displayed on any Lot.

## **8. Exterior Lighting.**

8.1 Exterior lighting shall be used only in areas of pedestrian activity or vehicular traffic, or as a part of an approved, coordinated landscape plan. Indirect lighting shall be used where possible. Exterior lighting shall not be installed where its direct source is visible from neighboring properties or where it produces excessive glare to pedestrian or vehicular traffic. The use of other than white or pale yellow exterior lights will require written approval of the Committee specifically authorizing the color, except for colored lighting used as holiday decoration. The Committee recommends that a professional lighting designer be consulted. Holiday lighting displays shall be illuminated no earlier than six (6) weeks prior to the applicable holiday and shall be turned off and removed from the Lot no later than three (3) weeks after the holiday.

## **9. Construction Site Requirements.**

9.1 All construction sites are to be maintained in a clean and orderly fashion throughout the construction process. Construction materials are to be neatly piled; debris and rubbish are to be contained and periodically removed; tall unsightly weeds are to be routinely cut back; and streets adjoining a construction site are to be frequently swept clean of sand and construction trash.

9.2 Lots neighboring a construction site may not be used for the dumping of construction debris, trash, or excess fill material, gravel, concrete or similar materials.

9.3 Delivery of building materials shall be coordinated to avoid lengthy on-site storage prior to use.

9.4 The proposed location of temporary construction improvements shall be included in the application for a Development Permit and subject to the Committee's approval.

## 10. Design Review.

10.1 Design Review Committee. The Committee derives its existence and authority from the Declaration of Covenants and Restrictions of Cottages at the Park.

10.2 Issuance of Development Permits. Any development, including any alteration of the natural land surface or vegetation, on any Lot or on the Common Properties shall conform to the Covenants and the Bill of Assurance, including these Design Guidelines. A Development Permit issued by the Committee shall be obtained before the commencement of any development on any Lot. The Committee shall issue Development Permits only after the Final Permit Application and other required items have been reviewed and approved.

10.3 Committee Approval. A Final or Preliminary Permit Application may be acted upon in one of three methods: (i) approved (with or without comments); (ii) approved as noted (with comments); or (iii) denied. If denied, a Final or Preliminary Permit Application may be modified and resubmitted without additional fee. The affirmative vote of a majority of the members of the Committee is required for approval of a Final Permit Application and issuance of a Development Permit, and approval of a Preliminary Permit Application. A Final Permit Application shall be deemed approved if the Committee fails to act by written notice on or before forty-five (45) days after a Permit Application and all required information is submitted for final review and approval (a "**Default Approval**"), provided, however, no Default Approval shall be deemed to permit the violation of the Declaration or the Bill of Assurance, including these Design Guidelines, and no Improvement that violates such instruments shall be erected or allowed to remain. Approval of a Preliminary Permit Application shall be for informational and guidance purposes only and shall in no way bind the Committee.

10.4 Limitation on Responsibility and Liability. The primary responsibility of the Committee is to review the Final Permit Application submitted to it to determine if the proposed improvements comply with the Declarations, the Bill of Assurance and the Design Guidelines. The Committee does not review and assumes no responsibility for the following:

- A. The structural adequacy, capacity or safety features of the proposed improvement or structure.
- B. Whether or not the location of the proposed improvement or structure on the building site is free from any possible hazard whether caused by conditions occurring either upon or off of the property.
- C. Soil erosion or soil conditions.
- D. Mechanical, electrical or any other technical design requirements for a proposed project.
- E. Compliance with any building codes, safety requirements, or governmental laws, regulations, codes or ordinances.

F. Performance or quality of work of any contractor.

By acceptance of a deed to any Lot, the Owner acknowledges the foregoing and waives and releases the Developer, the Committee and the Board, and all officers, members, employees and agents thereof from any and all liability arising from items for which any of such Persons have not expressly assumed responsibility.

10.5 Expiration of Development Permit; Completion of Construction.

10.5.1 An applicant must commence construction within one hundred eighty (180) days after the Committee issues a Development Permit unless the Development Permit expressly provides otherwise. The Development Permit shall be deemed expired and void if no material construction activity has commenced within that time period. If a Development Permit expires, a new Permit Application shall be submitted and approved prior to construction of any Improvements. Any member of the Committee may issue an order temporarily extending the expiration date of a Development Permit until the next regular or special meeting of the Committee, at which time the Committee shall consider a permanent order extending the expiration date. The Committee may extend the expiration date of a Development Permit for a period not to exceed ninety days. Any such extension shall be in writing.

10.5.2 After commencement, construction work must be pursued diligently and continuously and must be completed within a period of nine (9) months after the date of the Development Permit. Any requests for time extensions must be made in writing to the Committee. Such requests shall indicate the current status of the project, the reasons for the time extension request and the new date of completion of the project. If construction is not completed within the required time period, or construction is not being diligently pursued, the Committee may withdraw its approval after notice to the Owner and its determination after a hearing that such a violation has occurred. The Owner shall be entitled to notice of the hearing and the right to offer proof that no violation of this section has occurred. Such hearing shall be held within three Business Days after the date of the foregoing notice to the Owner, or as soon thereafter as is reasonably practicable. If the approval of the Final Permit Application is withdrawn, the Development Permit shall be deemed suspended and the Board or the Developer may exercise all remedies available to them under the Declaration, the Bill of Assurance or applicable law.

10.6 Appeal. Any decision by the Committee denying a Preliminary or Final Permit Application or approving a Preliminary or Final Permit Application subject to comments or conditions (collectively, a "Permit Denial") may be appealed by the applicant to the Board of Directors. To commence an appeal of a Permit Denial, the applicant shall provide written notice of such appeal to the President of the Board and to the chairman of the Committee on or before 9:00 p.m., ten (10) Business Days after the date of the notice of Permit Denial. A decision by the Committee shall be final and unappealable unless a notice of appeal is timely filed by the applicant. The notice of appeal delivered to the Board officer shall include a copy of the denied Permit Application, including all plans, specifications and other items submitted with the application, the response of the Committee denying the subject Permit Application or conditioning approval, and shall state all facts and arguments pertinent to the appeal and such other information as the Board may reasonably request. The Board shall notify the appealing applicant in writing on or before ten Business Days after receipt of the notice of appeal of the time and place for a hearing of the appeal

by the Board. Such hearing shall occur within thirty calendar days after the Board's receipt of the notice of appeal. The Board may establish and publish reasonable rules for the conduct of appeal hearings and the content of the notice of appeal and items to be submitted with that notice.

10.7 Application Withdrawal. A Final or Preliminary Permit Application may be withdrawn without prejudice by the applicant as a matter of right; provided the request for withdrawal is made in writing and filed with the Committee prior to any review or action on the application by the Committee. No application may be withdrawn if such application has been reviewed and action, whether preliminary or final, taken by the Committee. An applicant shall be entitled to the return of any Final or Preliminary Permit Application fees upon proper withdrawal of the application.

10.8 Permit Application Review. A Development Permit is issued upon approval by the Committee after the Final Review of an applicant's Final Permit Application. As used in this Bill of Assurance, the term "Final Review" shall mean the review by the Committee of the Permit Application submitted by the applicant as the final depiction of the Improvements intended to be constructed or work performed on the Lot (the "**Final Permit Application**"). The Final Permit Application submitted for Final Review shall include the documents and materials described in Section 10.9.1 below. A review by the Committee of an Owner's Preliminary Permit Application (the "**Preliminary Review**") is available. The term "Preliminary Permit Application" means a Permit Application containing the documents and materials described in Section 10.9.2 below that describes in somewhat lesser detail the plans and specifications for the Improvements intended to be placed on the Lot. The Preliminary Review process is not mandatory, but is recommended to allow the Owner and the Committee to communicate on matters of concept and basic form prior to the Owner incurring the expense of detailed architectural and engineering drawings, plans and specifications.

#### 10.9 Permit Application Requirements.

10.9.1 Final Permit Application (Initial Construction or Major Remodeling or Addition). The Final Permit Application for initial construction of a home or other structure on a Lot or the major remodeling or addition to existing Improvements on a Lot shall include the items set forth below and such other documents, plans, drawings, material and other items reasonably requested by the Committee to describe or allow the Committee to gain a complete understanding of the Improvements proposed by the applicant. The applicant shall submit at least two copies of the Final Permit Application. The Final Permit Application must include the following (unless specifically waived by the Design Review Committee):

A. The Final Permit Application form as may be prepared and required by the Committee.

B. A statement by the Owner and his architect, engineer, designer or other qualified Person undertaking the design of the proposed Improvements that such parties have visited the site and have reviewed and are familiar with the applicable provisions of the Declaration and the Bill of Assurance, including these Design Guidelines. The Committee may include this statement as part of the Final Permit Application form.

- C. A site plan drawn to scale indicating:
1. Name of subdivision, lot, block, address and/or other required legal description of the property, and North directional arrow.
  2. Property lines, including streets, rights-of-way, lakes, easements, set back lines and all dimensions.
  3. Existing grade and location of proposed cut and/or fill, indicating approximate slope and height or depth of each (2' minimum interval).
  4. Proposed building footprint.
  5. Drainage plans indicating drainage patterns away from building to swales, culverts and other drainage facilities.
  6. Parking and paving plans indicating the location of all parking areas, driveways and sidewalks.
  7. Location of utility services, including particularly the location of all above-ground equipment such as transformers, risers, meters, sewage grinder pumps and tanks and similar items.
  8. Approximate location, size and kind of existing and proposed trees greater than four inches in diameter measured at a point 3 feet above the grade.
  9. Location of all structures, retaining walls, garbage and trash containers, decks, terraces, patios and similar outdoor living areas, walks, walls, fences, signs, swimming pools, fountains, air conditioner compressors and other HVAC equipment and components located outdoors, mechanical equipment, and other proposed improvements.
  10. Location of contractor's temporary facility, outhouses and other temporary structures and items, to be used during construction.
  11. Any temporary access to the site.

D. Floor plans for all floors indicating interior room dimensions and use, the location and size of exterior windows, doors and other openings, the location of mechanical and electrical systems, or any other conceptual plans for which a review is requested by the Committee.

E. Exterior elevations providing the exterior views of all structures, fences, signs and similar Improvements labeled in accordance with the site plan. The elevations shall include a brief description of all exterior materials, colors and finishes, including without limitation those of the walls, roofs, trim, chimneys, doors and windows. Building elevations shall be provided for all sides of the structure.



F. Upon request by the Committee, specifications or color boards as necessary to describe the (i) exterior wall materials and colors; (ii) roof materials and colors; (iii) door materials and colors; (iv) chimney materials; (v) stained or colored pavement materials; (vi) fencing and screening material; and (vii) any other exterior site improvements. Color and material descriptions shall be keyed to the exterior elevations, differentiating between general wall colors, fascia, railing, structural elements, door, trim and accent colors, and other elements of the structure.

G. The landscaping plan indicating proposed plantings (by common and botanical names) and their sizes; exterior lighting system, including decorative, security and other types of illumination (including location and type of lighting fixtures); irrigation system, special landscape features including without limitation ponds and fountains; flower and vegetable gardens; and similar outdoor improvements.

**10.9.2 Preliminary Permit Application (Initial Construction or Major Remodeling or Addition).** Unless waived, the Preliminary Permit Application for initial construction of a home or other structure on a Lot or the major remodeling or addition to existing Improvements on a Lot shall include the items set forth below and such other documents, plans, drawings, material and other items reasonably the applicant may desire to provide to describe or allow the Committee to gain a complete understanding of the Improvements proposed by the applicant. The applicant shall submit at least two copies of the Preliminary Permit Application. Unless waived by the Committee, the Preliminary Permit Application shall include the following:

A. The Preliminary Permit Application form as may be prepared and required by the Committee.

B. The site plan required under Section 10.9.1(C) above except that the locations and plans required in items 5 through 11 thereof need not be final and may be noted on the site plan as set out for preliminary review purposes only.

C. Floor plans for all floors indicating anticipated interior room dimensions and use and the location and size of exterior windows, doors and other openings.

D. Exterior elevations providing the exterior views of all structures, fences, signs and similar Improvements labeled in accordance with the site plan. The elevations shall include a brief description of anticipated exterior materials, colors and finishes, including without limitation those of the walls, roofs, trim, chimneys, doors and windows.

E. Color and material samples for buildings, exterior walls, roofs and exterior doors.

F. Surveyed locations of all trees greater than eighteen inches in diameter measured 3 feet above grade.

**10.9.3 Final Permit Application (Minor Remodeling, Exterior Refinishing or Landscape Modification).** The Final Permit Application for the minor remodeling, exterior refinishing or landscape modification of existing Improvements on a Lot shall include such documents, plans, drawings, materials, surveys and other items reasonably requested by the

Committee to describe or allow the Committee to gain a complete understanding of the Improvements or modifications proposed by the applicant. For exterior repainting, it shall be sufficient for the applicant to submit a Permit Application form, a color schedule, color chips and photographs of the Improvements to be repainted. Final Permit Applications for landscape modifications shall initially include photographs of the areas to be modified, and a narrative description of the proposed modifications including the common and botanical names of any plants, shrubs or trees to be installed. The Committee may thereafter request additional site plans, drawings or materials as may be necessary to describe or gain an understanding of the proposed modifications. For other modifications and improvements, applicants shall initially submit final site and floor plans, elevations with material indications, material samples, a color schedule and color chips for Committee consideration and review. The Committee may thereafter request additional site plans, drawings or materials as may be necessary to describe or gain an understanding of the proposed modifications. The applicant shall submit at least two copies of the Final Permit Application.

#### 10.10. Construction Review.

10.10.1 Site Marking. Prior to the start of construction, the items set forth below shall be physically marked on the Lot with flags or other markings readily determinable by members of the Committee. The marking shall be performed by or under the supervision of a registered surveyor. The Committee shall have no responsibility for verification and accuracy of property corners, Lot lines, setback lines, building location, the relationship of buildings to natural site features and similar physical attributes of the Lot. Responsibility for such items is the sole obligation of the Owner, which waives and releases any and all such claims against the Committee and the Association. The following items shall be marked on the Lot:

- A. Lot corners and boundaries.
- B. Setback lines and easement boundaries.
- C. Location of approved structures.
- D. Centerline of approved driveway.
- E. The location of existing and proposed utility lines.
- F. All trees with a trunk diameter of four inches or greater measured three feet above grade proposed for removal.

No trees shall be removed before being inspected and approved by a member of the Committee or other authorized Committee representative.

10.10.2 Changes During Construction. After a Development Permit is issued for the construction or modification of Improvements, all changes to the exterior of the structure or other Improvements, changes in orientation of the Improvement on the Lot, changes in driveway location and parking layout, trees to be removed, signs, and any other changes affecting the appearance of Improvements upon the Lot or to neighboring Lots shall require the prior written approval of the Committee. Changes proposed during the course of construction shall be submitted

in writing, and revised plans, if necessary, shall be resubmitted for approval unless otherwise so authorized in writing by the Committee. All structures shall be built in conformity with the Final Permit Application, as modified pursuant to this section.

**10.10.3 Compliance During Construction.** Periodic inspections of construction in progress may be made by the Committee or its representative to determine compliance with its policies and with the Development Permit. If construction differs in any material respect from the Final Permit Application approved by the Committee, the Committee may withdraw its approval after notice to the Owner and its determination after a hearing that a material deviation has occurred. The Owner shall be entitled to notice of the hearing and the right to offer proof that no material deviation from the approved Final Permit Application has occurred. Such hearing shall be held within three Business Days after the date of the notice to the Owner, or as soon thereafter as is reasonably practicable. If the approval of the Final Permit Application is withdrawn, the Development Permit shall be deemed suspended and the Board or the Developer may exercise all remedies available to them under the Declaration, the Bill of Assurance or applicable law.

## **11. Variance from Design Guidelines.**

11.1 The Committee shall have the power, where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Design Guidelines or where creative alternative design solutions are proposed, to vary, modify or waive the application of these guidelines relating to the construction or alteration of buildings or structures, so that the spirit of the Design Guidelines and the Covenants governing the Design Guidelines will be observed, safety and welfare secured and substantial justice done.

11.2 The affirmative vote of a majority of the members of the Committee shall be necessary to grant a waiver, variance or modification under the provisions of this Section.

11.3 Before a variance may be granted, the Committee should make a finding that the conditions in this Section are satisfied by evidence supplied to the Committee by the applicant for the variance and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

11.4 The Committee, in granting a variance, may prescribe appropriate conditions and safeguards in conformity with the Design Guidelines and the Covenants; and a violation of these conditions and safeguards shall be deemed a violation of the Design Guidelines and the Covenants.

11.5 The following shall be considered valid reasons for granting a variance:

11.5.1 That the special conditions and circumstances do not result from the actions of the applicant.

11.5.2 That special or extraordinary circumstances apply to the subject property that may not apply to other building sites at Cottages at the Park.

11.5.3 That the granting of a variance recognizes a creative and positive design solution and the variance will not adversely affect the intent and purpose of the Design Guidelines and Bill of Assurance of Cottages at the Park.

11.5.4 That the design solution proposed by the applicant is as good as or better, given the underlying intent and purpose of the Design Guidelines, than that provided for in the Design Guidelines.

11.6 The Committee may request such additional documentation, reports and other documentary evidence from the applicant as it deems necessary to process the variance application. It shall be the duty of the applicant for development approval to request a variance from the Committee if such is necessary as a result of the applicant's development proposal. If an application is submitted to the Committee that does not request a variance and varies from the requirements of the Design Guidelines, the Committee shall deny such application. If a variance is properly requested, it shall be processed in conjunction with the processing of the entire Design Review application. If the Committee approves a variance and the application of which it is a part, then the Development Permit subsequently issued by the Board shall specifically include and describe the variance.

11.7 This process is for the variance of the Design Guidelines only and not for the variance of the main body of the Covenants.

## **12. Miscellaneous.**

12.1 Vacant Lots not maintained by the Lot owner will be subject to routine maintenance, if in the opinion of the Committee, such Lot is deemed a nuisance, eyesore, health hazard or environmental problem to a neighboring property. Owners will be responsible for paying the costs of any such maintenance performed on their Lots.



CERTIFICATE OF RECORD  
STATE OF ARKANSAS, COUNTY OF BENTON  
I hereby certify that this instrument was  
Filed and Recorded in the Official Records  
in **Doc Num L202166910**  
**09/07/2021 11:15:24 AM**  
Brenda DeShields  
BENTON COUNTY Circuit Clerk & Recorder

INSTRUMENT PREPARED BY:

Jason N. Bramlett, Esq.  
FRIDAY, ELDREDGE & CLARK, LLP  
3350 S. Pinnacle Hills Pkwy., Suite 301  
Rogers, Arkansas 72758

**AMENDMENT TO  
DECLARATION OF COVENANTS AND RESTRICTIONS OF COTTAGES AT THE  
PARK POA, INC.**

This Amendment to Declaration of Covenants and Restrictions of Cottages at the Park POA, Inc. (the “*Amendment to Declaration*”) is made and declared effective the 15<sup>th</sup> day of February, 2023 (“*Effective Date*”) and made pursuant to the provisions of the Declaration (as defined below) by **LANDMARC CUSTOM HOMES, LLC**, an Arkansas limited liability company (“**Developer**”).

**RECITALS**

WHEREAS, on June 29, 2021, a Declaration of Covenants and Restrictions of Cottages at the Park POA, Inc. was executed by the Developer, and filed with the Circuit Clerk and Ex-Officio Recorder for Benton County, Arkansas, on September 7, 2021, as L202166910 (the “*Declaration*”);

WHEREAS, on June 29, 2021, a Bill of Assurance for the Cottages at the Park POA, Inc. was executed by the Developer and attached to the Declaration (the “**Bill of Assurance**”);

WHEREAS, the Declaration and Bill of Assurance apply to the real property legally described on **Exhibit A** attached hereto;

WHEREAS, the Developer desires to exercise its right to amend the Declaration in accordance with Section 3.08 of the Declaration to make clarifications that will ensure the Declaration is consistently interpreted and carried out in accordance with the purposes set forth in Sections 4.02<sup>1</sup> and 5.04(ii)<sup>2</sup> and 5.04(v)<sup>2</sup> of the Declaration and Purpose 1(a)<sup>3</sup> of the Articles of Incorporation of the Cottages at the Park POA, Inc.; and

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<sup>1</sup> Section 4.02 provides that the Association was formed to enforce the performance of duties imposed upon it concerning the Property.

<sup>2</sup> Section 5.04 states that the Association shall be responsible for common expenses including but not limited to (ii) the maintenance, repair, acquisition, and construction of Common Properties and (v) any other expenses and liabilities that may be incurred by the Association for the benefit of its Members under or by reason of this Declaration or Bill of Assurance.

WHEREAS, capitalized terms used but not defined herein shall have the meanings ascribed to such terms within the Lease.

## AGREEMENT

NOW, THEREFORE, in consideration for the promises and benefits set forth herein, the Parties agree to amend the Declaration of Covenants and Restrictions of Cottages at the Park POA, Inc. as follows:

1. Amendment to Section 9.01 of the Declaration. Section 9.01 of the Declaration is amended, modified, and restated in its entirety to provide as follows:

“**Section 9.01. Title to Common Properties.** Developer will convey title to Common Properties to the Association at its convenience, but no later than one year after the Developer Control Period has expired with respect to all Phases. Any conveyance of Common Properties shall be free and clear of all liens securing any indebtedness or obligation of the Developer (other than the current year’s ad valorem real estate taxes that are due but not payable) unless such indebtedness is incurred by the Developer or the Association for the construction of Improvements on Common Properties, in which case the Association shall assume and/or refinance such indebtedness pursuant to Sections 5.04(ii) and (v) of this Declaration so that the Developer is not legally liable for such indebtedness. Such conveyance may also be subject to any rights of access or easements retained by the Developer for utilities, maintenance, or similar purposes, the right of Developer under Section 9.02(b) below, and any other encumbrance that does not materially hinder the intended use of such properties.”

2. Amendment to Exhibit D, Paragraph 7 of the Declaration. Paragraph 7 of the Bill of Assurance is amended, modified, and restated in its entirety to provide as follows:

“7. **Unbuildable Lots, Greenspace, and Swimming Pool.** Lots 13, 14, and 60 are unbuildable Lots. The Association shall maintain any improvements located in such areas at its sole cost. No Improvements shall be placed on such Lots without the prior approval of the Board of Directors and, if necessary, the appropriate agencies of the City of Springdale. At a date selected in Developer’s sole discretion, Developer will construct a swimming pool and related amenities as determined by the Developer on Lot 60, and the Association shall obtain and/or refinance any indebtedness required to construct the forgoing amenities or which is incurred by Developer for the construction of such amenities, such that the Developer is not legally liable for such indebtedness. The Association shall implement rules and regulators governing such amenities.”

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<sup>3</sup> Purpose 1(a) of the Articles of Incorporation of the Cottages at the Park POA, Inc. states that the purpose of the Association is “to provide for the acquisition, construction, management, maintenance, and care of association property consisting of property held by the corporation, property commonly held by the members of the corporation, and property within the Association privately held by members of the corporation.”

3. Binding Effect. All covenants, conditions, and obligations contained herein or implied by law are covenants running with the land and shall attach and bind and inure to the benefit of the Developer, the Owners of the Cottages at the Park, and their respective heirs, legal representatives, successors, and assigns, except as otherwise provided herein.

4. Miscellaneous. No term or provision contained herein may be modified, amended or waived except by the means provided in the Declaration. This Amendment shall be governed by the laws of the State of Arkansas. This Amendment may be executed and delivered by facsimile signature or other electronic means, and/or in multiple counterparts, all of which together shall constitute one and the same instrument.



Except as herein amended, the Declaration shall remain in full force and effect.

**LANDMARC CUSTOM HOMES, LLC**  
an Arkansas limited liability company

By: *Chris Bradley*

Name: Chris Bradley

Title: President

STATE OF ARKANSAS )

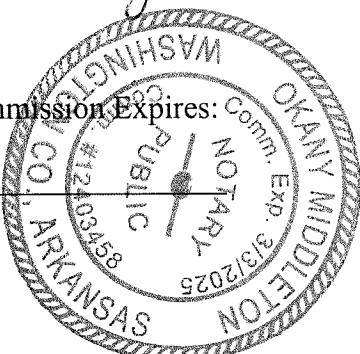
) ss. **ACKNOWLEDGMENT**

COUNTY OF BENTON )

On this 15<sup>th</sup> day of February 2023, before me, a Notary Public (or before any officer within this State or without the State now qualified under existing law to take acknowledgments), duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named Chris Bradley, being the person authorized by **LANDMARC CUSTOM HOMES, LLC**, an Arkansas limited liability company ("Company") to execute such instrument, stating his capacity in that behalf, to me personally well known (or satisfactorily proven to be such person), who stated that he was the President of Company, and was duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of Company, and further stated and acknowledged that he had so signed, executed, and delivered said foregoing 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 15<sup>th</sup> day of February, 2023.

My Commission Expires:



*[Signature]*  
Notary Public

EXHIBIT APhase 1

Lots 1 through 59, Revised Final Plat of Cottages at the Park Phase 1, Springdale, Benton County, Arkansas, recorded on May 27, 2021, File No. L202139930.

PHASE II DESCRIPTION - PART OF PARCEL NO. 21-00167-556:

A PART OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION TWENTY (20), TOWNSHIP EIGHTEEN NORTH (T-18-N), RANGE THIRTY WEST (R-30-W) OF THE FIFTH PRINCIPAL MERIDIAN, CITY OF SPRINGDALE, BENTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 20, SAID POINT BEING A FOUND RAILROAD SPIKE IN WEST COUNTY LINE ROAD; THENCE ALONG THE SOUTH LINE OF SAID SW 1/4, S86°35'37"E A DISTANCE OF 659.90 FEET TO A FOUND RAILROAD SPIKE IN WEST COUNTY LINE ROAD; THENCE LEAVING SAID SOUTH LINE, N02°27'18"E A DISTANCE OF 705.55 FEET TO THE POINT OF BEGINNING; THENCE N02°27'18"E A DISTANCE OF 654.06 FEET; THENCE S87°32'42"E A DISTANCE OF 987.96 FEET; THENCE S02°22'15"W A DISTANCE OF 654.06 FEET; THENCE N87°32'42"W A DISTANCE OF 988.92 FEET TO THE POINT OF BEGINNING, CONTAINING 14.84 ACRES, MORE OR LESS. SUBJECT TO THE RIGHT OF WAY OF DOWNUM ROAD ON THE EAST SIDE THEREOF.

PHASE III DESCRIPTION - PART OF PARCEL NO. 21-00167-556:

A PART OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION TWENTY (20), TOWNSHIP EIGHTEEN NORTH (T-18-N), RANGE THIRTY WEST (R-30-W) OF THE FIFTH PRINCIPAL MERIDIAN, CITY OF SPRINGDALE, BENTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 20, SAID POINT BEING A FOUND RAILROAD SPIKE IN WEST COUNTY LINE ROAD; THENCE ALONG THE SOUTH LINE OF SAID SW 1/4, S86°35'37"E A DISTANCE OF 659.90 FEET TO THE POINT OF BEGINNING, SAID POINT BEING A FOUND RAILROAD SPIKE IN WEST COUNTY LINE ROAD; THENCE LEAVING SAID SOUTH LINE, N02°27'18"E A DISTANCE OF 705.55 FEET; THENCE S87°32'42"E A DISTANCE OF 988.92 FEET; THENCE S02°22'15"W A DISTANCE OF 721.99 FEET; THENCE N86°35'37"W A DISTANCE OF 990.12 FEET TO THE POINT OF BEGINNING, CONTAINING 16.21 ACRES, MORE OR LESS. SUBJECT TO THE RIGHT OF WAY OF COUNTY LINE ROAD ON THE SOUTH SIDE THEREOF AND DOWNUM ROAD ON THE EAST SIDE THEREOF.



CERTIFICATE OF RECORD  
STATE OF ARKANSAS, COUNTY OF BENTON  
I hereby certify that this instrument was  
Filed and Recorded in the Official Records  
in Doc Num L202307444  
02/16/2023 09:26:27 AM  
Brenda DeShields  
BENTON COUNTY Circuit Clerk & Recorder