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BY-LAWS OF THE VALLEY VIEW ESTATES SUBDIVISION ADDITION

PROPERTY OWNER'S ASSOCIATION, INC.

(An Arkansas Non-Profit Corporation)

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Audra L. Bailey, PA
Fidelity Investments
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72702-0626
AR 72702-0626

**BY-LAWS OF THE VALLEY VIEW ESTATES SUBDIVISION ADDITION
PROPERTY OWNER'S ASSOCIATION, INC.**

(An Arkansas Non-Profit Corporation)

ARTICLE I

REGISTERED OFFICE

- 1.1 Valley View Estates Subdivision Property Owner's Association, an Arkansas Non-Profit Corporation (the "Association"), shall have at all times within the State of Arkansas a registered office and a registered agent. The Association may have other offices within the State of Arkansas as may be determined from time to time by its Board of Directors (the "Board").

ARTICLE II

**ADOPTION OF AMENDED AND RESTATED RESTRICTIVE COVENANTS,
CONDITIONS, AND DECLARATIONS AS PART OF THE BYLAWS**

- 2.1 Adoption by reference. The Third Amended and Restated Restrictive Covenants and Architectural Design Guidelines for Each of the Subdivisions Comprising Valley View Estates Subdivision, an Addition to Washington County, Arkansas as reflected upon a plats of said subdivisions filed: South Clubhouse Estates in Plat Book 16 at Page 78 filed on April 20, 2004; Riviera Estates in Plat Book 23A at Page 86 filed on January 30, 2004; North Clubhouse Estates in Plat Book 16 at Page 96 filed on July 21, 2000; Rose Court in Plat Book 16 at Page 136 filed on December 6, 2000; and Bermuda Estates in Plat Book 16 at Page 79 filed on April 20, 2000 of the Plat Records of Washington County, Arkansas, in the office of the Circuit Clerk and Ex-Officio Recorded of Washington County, Arkansas, and any amendments thereto hereafter made, if any, are hereby adopted and incorporated as part of these Bylaws by reference as though the same were set out herein word for word.
- 2.2 Restrictive Covenants to Control. In the event any provision contained in these Bylaws or any rule or regulation of the Association or any other acts of the Association shall be in conflict with the Restrictive Covenants, then the Restrictive Covenants shall control.

ARTICLE III

DEFINITIONS

- 3.1 The following words, when used in these By-Laws shall have the following meaning:
 - a. "By-Laws" shall mean and refer to this document and all declarations and by-laws contained herein.

- b. "Common Properties" shall mean all real property, personal property and any improvements thereon, such as swimming pools, clubhouses, medians, signs, entry ways and the like, owned, leased or hereafter acquired by the Association. Common Properties are for the exclusive common use and enjoyment of the Members.
- c. "Restrictive Covenants" shall mean and refer to the Amended and Restated Restrictive Covenants and Architectural Design Guidelines for Each of the Subdivisions Comprising Valley View Estates Subdivision, an Addition to Washington County, Arkansas as reflected upon plats of said subdivisions filed as listed in Article II, 2.1
- d. "Developer" shall mean and refer to Rausch Coleman VV, LLC
- e. "Lot" means any numbered Lot designated on the Plat of the Subdivision, except as may be otherwise excepted below.
- f. "Member" shall mean and refer to all those persons or entities who are members of the Association as provided herein.
- g. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot subject to these By-Laws, but excluding those having such interest merely as security for the performance of an obligation.
- h. "Plat", whether used in the singular tense or plural, means those maps of plats for various portions of Valley View Estates Subdivision as filed of record in Washington County, Arkansas.
- i. "Properties" shall mean and refer to all Lots in the Subdivision.
- j. "ARC" shall mean and refer to the Valley View Addition Architectural Review Committee.
- k. "Subdivision(s)" shall mean and refer to those subdivisions that comprise Valley View Estates and as more particularly described in the Covenants.
- l. "Association" shall mean and refer to the Valley View Addition Property Owner's Association, Inc. (an Arkansas corporation).

ARTICLE IV

PROPERTY SUBJECT TO THESE BY-LAWS

- 4.1 The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to these By-laws, is located and situated in Washington County, Arkansas, and which Subdivision is located on the real property more particularly described in Exhibit "A" attached hereto.

ARTICLE V

MEMBERSHIP AND VOTING RIGHTS OF THE ASSOCIATION

- 5.1 Membership: Every person or entity, including the Developer, their heirs, successors and assigns, who is a record Owner of a fee, or undivided fee, interest in any Lot which is located in the Subdivision shall be a Member of the

Association. Any person or entity who holds such an interest merely as security for the performance of an obligation shall not be a Member.

- 5.2 Voting Rights: Voting members of the Association shall be entitled to vote in the election of Directors of the Association and for all other purposes. Said voting rights are more specifically set forth below.

Members shall be all those persons or entities as defined in § 5.1. Except as otherwise provided herein, the record Owner (or record Owners as the case may be) of any Lot shall be entitled to one vote for each Lot in which said Owner or Owners hold the interest required for membership. When more than one person holds such interest or interests in any Lot, all such persons shall be Members, and the vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot except as hereinafter provided. A photocopy of the latest recorded deed for each Lot furnished by the Owner shall be conclusive evidence of the right of the record Owner or Owners shown thereon to cast the vote for such lot as a Member of the Association, and such recorded deed shall be filed with the Secretary of the Association prior to any vote. When any Lot is owned by more than one person or entity, the first name appearing in the granting clause of said deed shall be the person or entity entitled to cast the vote for the lot described thereon, unless an agreement signed in writing by all record Owners is filed with the Secretary designating another record Owner of said lot to cast the vote for such Lot. Voting rights of any corporate entity shall be cast in accordance with a certificate of resolution setting forth such Authority and signed by the Secretary of said corporation to be filed with the Secretary of the Association prior to any vote.

Notwithstanding the foregoing, the Developer shall have four (4) votes per Lot on all matters until the Developer has conveyed 99% of Lots in the Addition to other Owners, at which time the Developer shall have one (1) vote per Lot that it still owns and has not conveyed.

- 5.3 Membership meetings: The Association members shall annually hold a regular meeting, one of the purposes of which shall be to elect directors. The first regular meeting of Members may be held, subject to the terms hereof, on any date, at the option of the Board, within one year after the incorporation of the Association. Subsequent to the first meeting, there shall be a regular annual meeting of Members held each-year within thirty (30) days of the anniversary of the first regular annual meeting. All such meetings of Members shall be held at such place and at such time as is specified in the written notice of such meeting. Such notice shall be mailed to or otherwise delivered to all Members at least fifteen (15) days and not more than forty-five (45) days prior to the date of such meeting. Such notice shall also state the purpose of such meeting.

- 5.4 Special Meetings: Special Meetings of the Members may be called by the President or by a majority of the directors, or by fifty (50%) percent of the Members. Special meetings shall be called by delivering written notice to all Members not less than ten days nor more than thirty (30) days prior to the date of said meeting, stating the date time, place, and purposes of the special meeting.
- 5.5 Waiver of Notice: Waiver of notice of any meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, whether before or after such meeting. Attendance at a meeting by a Member, whether in person or by proxy, shall be deemed a waiver by such Member of notice of the time, date, and place thereof unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed a waiver of notice of all business transacted thereat unless objection to lack of notice is raised before the business, of which proper notice was not given, is put to vote.
- 5.6 Quorum: A quorum of Members for any meetings shall be deemed present throughout such meeting if Members represented in person or by proxy and holding more than one-half of the votes entitled to be cast at such meeting are present at the beginning at such meeting.
- 5.7 Adjournment: Any meeting of the Members may be adjourned from time to time for periods not exceeding 48 hours by vote of the Members holding the majority of the votes represented at such meeting, regardless of whether a quorum is present. Any business which could be transacted properly at the original session of the meeting may be transacted at an adjourned session, and no additional notice of such adjourned session shall be required.
- 5.8 Consents: Any action which may be taken by a vote of the Members may also be taken by written consent signed by all Members.
- 5.9 Meeting Rules: The Board may prescribe reasonable rules for the conduct of all meetings of the Board and Members.

ARTICLE VI

DIRECTORS AND OFFICERS

- 6.1 Initial Board of Directors: The initial Board of Directors shall be composed of Judy Titsworth, David Frye, and Kim J. Hesse who shall serve until the annual meeting to be held in the year 2006.
- 6.2 Election of Directors: Upon the end of the term of the initial Directors or their resignation as set forth above in paragraph 6.1, the membership shall elect the

Board of Directors, which, unless a special meeting is held to have the first election, shall be held at the annual meeting of the membership.

- 6.3 Number and Tenure of Directors: The number of Directors to be elected, after the initial Directors, shall be three (3) and their terms shall be as follows: The three individuals receiving the highest number of votes for Directors shall serve a two year term. Thereafter, the Directors' seats that will be vacated will be voted upon at the Members' annual meeting to serve a two-year term as set out above. Directors and officers shall serve with no compensation.
- 6.4 Duties: The business and property of the Association shall be managed by the Board of Directors.
- 6.5 Cumulative Voting: Members shall be entitled to cumulative voting for Directors.
- 6.6 Election of Officers: The Directors shall elect a President, Vice-President, Secretary, and Treasurer to serve one-year terms until the next election.
- 6.7 Duties of President: The President of the Associations shall be its chief executive officer and have the responsibility for the supervision of the management of the affairs of the Association. The President shall preside over meetings of the Board of Directors.
- 6.8 Duties of the Vice President: The Vice-President shall perform the duties and exercise the powers of the President during absence or disability of the President. In the event of the death, resignation, or removal of the President, the Vice-President shall serve as President until a new president has been elected.
- 6.9 Duties of Secretary: The Secretary of the Association shall keep the minutes of the meetings of the Board of Directors and the Membership and shall keep and make all other records and reports, except for accounting purposes, necessary and proper to the operation of the Association.
- 6.10 Duties of Treasurer: The Treasurer of the Association shall keep the books of account of the Association, maintain deposit accounts for the funds of the Association which shall be subject to withdrawal upon the signatures of the President and Treasurer and whose signatures shall be duly certified to the depositories of the Association, and be responsible for the proper reporting to any governmental agency and the membership of the Association for funds received and paid out, including the responsibility to submit a financial report to the Board of Directors at each regular Director's meeting and to the membership at the annual meeting of the membership.
- 6.11 Association Committees:

- a. Optional Committees: The Board of Directors may, from time to time, establish such committees as the Board of Directors deems necessary and desirable to assist in the efficient operation of the Association. Committee members shall be Members of the Association and shall be appointed by the Board of Directors and shall serve at the pleasure of the Board of Directors.
 - b. Valley View Estates Subdivision Architectural Review Committee ("ARC"): The Members of Developer shall serve as the ARC until their resignation. Thereafter, the Board of Directors shall appoint at least two (2) and not more than four (4) Members of the Association thereon and shall appoint one of the committee members to serve as chairman.
- 6.12 Director's Meetings: Regular meetings of the Board of Directors shall be held, at least annually at the office of the Association or at such other places as the President may designate. Special meetings may be called at any time by the President, and may be called by any officer of the Association upon written demand of two (2) or more Directors. A quorum shall be deemed to exist at any regular or special meeting of the Directors if two or more directors are present.
- 6.13 Meeting Rules: The Board may prescribe reasonable rules for the conduct of all meetings of the Board and Members.
- 6.14 Execution of Documents: When the execution of any contract, conveyance or any instrument has been authorized by the Board of Directors without specification as to the representative of the Association to execute said instrument or instruments, the President and the Secretary may execute the same in the name and in behalf of the Association and may affix the corporate seal thereto. The Board shall have the power to designate the officers and agents who shall have the authority to execute any instrument on behalf of the Association.
- 6.15 Removal of Directors and Newly Created Directorships and Vacancies: Any and all of the Directors may be removed for cause by a majority vote of the Members or by action of the Board. Directors may be removed without cause only by a majority vote of the Members. Newly created directorships resulting from the resignation or death of a Director may be filled by a vote of a majority of the Directors then in office. Vacancies occurring by reason of the removal of Directors with or without cause shall be filled by a majority vote of the Members. A Director elected to fill a vacancy caused by resignation, death or removal shall be elected to hold office for the unexpired term of his or her predecessor.

ARTICLE VII
ARCHITECTURAL APPROVAL

- 7.1 Plan Approval: The overall plan for the Subdivision contemplates centralization of architectural control to enhance, ensure, and protect the attractiveness, beauty,

and desirability of the area as a whole while at the same time permitting compatible distinctiveness of individual dwellings. For this purpose, the ARC shall have the right and responsibility to review and approve plans and specifications for all new construction in the subdivision.

No building, fence, wall, residence or other structure shall be commenced, erected, or maintained upon the property nor shall any exterior addition to or change or alteration to such structures or the color thereof (including without limitation, side landscaping visible from any part of the Property and grading plans, reroofing materials, patio covers and trellises, plans for off-street parking of vehicles and utility layout), be made until the plans and specifications of such improvements are submitted to and approved in writing by the ARC. Provided, however, in the event ARC fails to approve or disapprove such design or locations within forty-five (45) days after said plans and specifications shall be submitted in writing over the signature of the Owner of the Lot or the Owner's authorized agent. The ARC shall have the right to require any Owner to remove or alter any structure which has not received approval or is built other than in accordance with the approved plans and to receive reimbursement from Owner for any cost expended in this effort. The requirements of this article are in addition to any approvals or permits required by any appropriate governmental entity, which shall be submitted to the ARC after such permits are received.

7.2 No Liability: Neither Developer nor its assigns, the Association, the Board of Directors, nor the ARC or the Members thereof shall be liable in damages to anyone submitting plans and specifications to them for approval, or to any Owner of a Lot affected by these restrictions by reason of mistaken judgement, negligence, or disapproval or failure to approve or disapprove any such plans or specifications and no approval or required modification of plans submitted shall be considered a warranty of any nature whatsoever pertaining to the suitability of such plans and specifications. Every person who submits plans and specifications to the ARC for approval agrees that no action or suit for damages will be brought against the Developer, the Association, its Board of Directors, the ARC, or any of the Members thereof.

7.3 Notice of Non-Compliance or Non-Completion: Notwithstanding anything to the contrary contained herein, after expiration of one (1) year from the date of issuance of a building permit by a municipal or other governmental authority, provided that such building permit was submitted to the ARC and provided the improvement was constructed, said improvement shall, in favor of purchasers and encumbrances in good faith and for value, be deemed to be in compliance with all provisions of these articles unless actual notice of such non-compliance or non-completion, executed by the ARC, or its designated representative, shall appear of record in the real estate records of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas or unless legal proceedings have been instituted to enforce compliance or completion within such one year period. This presumption

of compliance is conditioned upon the building permit having been submitted to the ARC within thirty (30) days after its issuance.

- 7.4 Appeal: All actions taken by the ARC are appealable by the aggrieved Owner who shall appeal by a written appeal within fifteen (15) days after the ARC actions. Such action of the ARC may be overturned by a majority vote of the Board of Directors.

ARTICLE VIII

PLAN FOR MAINTENANCE OF COMMON PROPERTIES

- 8.1 Islands, Walls and Other Improvements: It is contemplated that certain landscaping islands, walls, signs and sign posts and landscaping and street lights in the Subdivision and other improvements may be erected on the Common Properties by the Developer. The cost, maintenance, capital improvements, operation, taxes, and other expenses incident to the Common Properties shall be the obligation of the Association and shall be paid from assessments against each Lot as herein provided. All other Common Properties designated by the Association shall also be maintained at the expense of the Association.

ARTICLE IX

PROPERTY RIGHTS OF THE COMMON PROPERTIES

- 9.1 Members' Easement for Enjoyment: Subject to the provision of this article and related provisions set forth elsewhere herein, every Member shall have a right of enjoyment in and to the Common Properties and the areas, subject to the rules and regulations governing such use as promulgated, from time to time, by the Association. Such right and easement shall be appurtenant to and shall pass with the conveyance of title to every Lot.
- 9.2 Extent of Member's Right of Enjoyment: The rights of easements of enjoyment created hereby shall be subject to the following:
- a. The right of the Association to borrow money for the purpose of acquiring, constructing, improving, and maintaining the Common Properties and in aid thereof to mortgage said properties or execute a deed of trust or other instrument covering said properties. In the event of default upon any such mortgage, the lender shall have a right, after taking possession of such properties, to charge service or use charges, admission and other fees as a condition to continued enjoyment by the Members, and other fees as a condition to continued enjoyment by the Members, and if necessary to have other relief as permitted by law; and
 - b. The right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosure; and

- c. The right of the Association to suspend or permanently cancel the rights of any Member and membership in the Association as hereinafter provided; and
- d. The right of the Association to charge reasonable service or use charges, admission and other fees for the use, service and enjoyment of the Common Properties; and
- e. The right of the Association to limit the number of Members per lot who may be entitled to the benefit of the easement of enjoyment as to the Common Properties by reason of ownership of a Lot; and
- f. The right of individual Members to have exclusive use of any of the Common Properties as from time to time may be generated by the Board or its designate;
- g. The right of the Association to pass and enforce rules and regulations related to use, control, and maintenance of the Common Properties and the areas situated thereon.

ARTICLE X

COVENANT FOR MAINTENANCE AND OTHER ASSESSMENTS

- 10.1 Creation of Lien: Each Owner of any Lot of the Subdivision, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed, contract of purchase, or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) Annual assessments or charges; (2) special assessments for capital improvements, such assessments to be fixed, established and corrected from time to time as hereafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the Property, and shall be a continuing lien upon the Lot against which each such assessment is made. In no event shall an annual or special assessment be applicable at any time to any Lot owned by the Developer and the Developer shall not be obligated to pay an annual or special assessment.
- 10.2 Purposes of Assessments: The assessments levied pursuant hereto by the Association shall be used for the purposes of acquisition, improvement and maintenance of the Common Properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties, insurance thereon, and repair, replacement, and modifications thereto, and for the cost of labor, equipment, materials, management, and supervision thereof. In additions, assessments may also be used for expenses related to the necessary and reasonable operation of the Association, including, but not limited to, collection of assessments and related costs and enforcement of the Restrictive Covenants of the Subdivision.
- 10.3 Basis and Maximum of Annual Assessments: The initial annual assessment for each Lot within the Addition on which is constructed an occupied dwelling or

dwelling available for occupancy shall be One Hundred Fifty Dollars (\$150.00) per lot. Each vacant lot or lot upon which a dwelling has not been completed within the Addition shall have an initial assessment against it of Seventy-Five Dollars (\$75.00) per lot. An Owner's first such assessment shall be prorated and paid to the Association at closing according to time of conveyance of a Lot from the Developer to the Owner. The annual assessment may be increased, as hereinafter provided, by a majority vote of the votes entitled to be cast by the Members for the next succeeding "assessment year" (beginning January 1) and at the end of each such period of one year for each succeeding period of one year. At no time shall the annual assessment per Lot be increased more than twenty-five (25%) above the prior year's annual assessment. Said annual assessment shall either be paid in advance on the 1st day of January each year or paid monthly by automatic bank draft. The Board of Directors may, after consideration of current maintenance costs, Lease payments and future needs of the Association, fix the actual assessment for any year at a lesser amount. However, the amount and basis of the assessments shall not be reduced below the minimum level required for the Association to meet its obligations.

- 10.4 Special Assessments for Capital Investments: In addition to the annual assessments authorized by §10.3 hereof, the Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement or a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of 2/3 of the votes entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be mailed to all Members at the last known address of each Member, at least fifteen (15) days in advance and shall be set forth the purpose of the meeting.
- 10.5 Change in Basis of Maximum of Annual Assessments: Subject to the limitations of §10.3 hereof, and for the purposes therein specified, the Association may change the maximum and basis of the assessments fixed by §10.3 hereof prospectively for any such period, provided that any such change shall have the assent of a majority of the votes entitled to be cast by Members who are voting in person or by proxy, at a meeting duly called for this purpose, where a quorum is present, written notice of which shall be mailed to all Members at the last known mailing address of each voting Member at least fifteen (15) days in advance and shall set forth the purpose of the meeting. However, the amount and basis of the assessments shall not be reduced below the minimum level required for the Association to meet its obligations.
- 10.6 Quorum for any Action Authorized Under Sections 10.4 and 10.5: As to any meeting on any action authorized by Sections 10.4 and 10.5 hereof, the presence at the meeting of Members, or of proxies, entitled to cast fifty percent (50%) of all votes of the membership shall constitute a quorum. If the required quorum is not

forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in sections 10.4 and 10.5.

- 10.7 Late Payment of Assessments: As provided for above, each annual assessment shall be due and payable on the 1st day of January of each year. In the event default as to any payment (annual or special), and if the default is not remedied within ninety (90) days, the Association shall have the option of taking such action as permitted by law or equity and by these By-laws and the Restrictive Covenants. An additional late charge of ten percent (10%) shall be assessed on any payment which is more than ninety (90) days delinquent. Costs of collection of the assessment, including attorney's fees therefore, shall also be assessed.

The due date of any special assessment under §10.4 hereof shall be fixed in the resolution of the Members of the Association authorizing such assessments, with the same option on the part of the Association in the event of default, and if no due date is affixed, then it shall be due within thirty (30) days after the approval of such special assessment.

- 10.8 Duties of the Board of Directors: In addition to the other duties of the Board of Directors, the Board of Directors shall fix the date of any special assessment against each Lot for any special assessment period at least thirty (30) days in advance of such special assessment, written notice of the special assessment shall thereupon be sent to every Member subject thereto at the last known mailing address of such Member.

The Secretary of the Association, upon demand at any reasonable time, shall furnish to any Member liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessments have been paid.

- 10.9 Effect of Non-payment of Assessment and the Lien Remedies of the Association:
10.9.1 If any assessment or fine or any part thereof is not paid on the date(s) when due, then the unpaid amount of such assessment shall be considered delinquent and shall, together with any late charge and interest thereon at the maximum rate allowed under applicable law and costs of collection thereof, thereupon become a continuing debt secured by a self-executing lien on the lot of the non-paying owner which shall bind such lot in the hands of the owner and owner's heirs, executors, administrators, devisees, personal representatives, successors, and assigns. The Board shall have the right to reject partial payments of an unpaid assessment and demand the full payment thereof. The personal obligation of the then-existing owner to pay such assessment, however, shall remain the owner's personal obligation and shall not pass to owner's successors in title unless expressly assumed by them. However, the lien for unpaid assessments shall be unaffected by any sale or assignment of a lot and shall continue in full force and effect. No owner may waive or otherwise escape liability for any

assessment provided herein by non-use of the Common Properties or abandonment of the lot.

10.9.2 The Board may also give written notification to the holder(s) of a mortgage on a lot of a non-paying owner of such owner's default in paying any assessment when such default has not been cured within 30 days of the original date due, provided that the Board has, theretofore, been furnished in writing with the correct name and address of the holder(s) of such mortgage and a request to receive such notification.

10.9.3 The Board may, at its election, retain the services of an attorney to review, monitor and/or collect unpaid assessments and delinquent accounts, and there shall also be added to the amount of any unpaid assessment or to any delinquent account any and all attorneys' fees and other costs of collection incurred by the Association.

10.10 Subordination of the Lien or Mortgages: The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust now or hereafter placed upon the Lots subject to assessment; provided however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such Lot pursuant to a Decree of Foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such Lot from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

10.11 Suspension of Rights of Membership: Prior to the foreclosure of any lien upon any Lot subject to these By-laws and the Restrictive Covenants, the Board of Directors of the Association may elect to suspend all membership rights of any Member or Members of the Association who are delinquent in any payment due to the Association for more than thirty (30) days, with such suspension to continue for so long as any such delinquency exists. Further, the Board of Directors may suspend membership rights for a period not to exceed thirty (30) days from the infraction of any use or regulations by the Member, family of the Member or guest of the Member, relating to the use of any of the Common Properties, Suspension of membership rights shall be effective from the date that notice of suspension is mailed to the Member via U.S. Certified mail, return receipt requested, postage prepaid, to the last known address of the said Member.

10.12 Cancellation of Hearing: The Board of Directors may elect to permanently cancel the membership and all membership rights of any Member who is delinquent in any payment due to the Association for more than ninety (90) days or when such Member, family of the Member, or guest of the Member are guilty of repeated or flagrant violation(s) after hearing conducted by said Board of Directors, which notice of such hearing mailed to such Member at least thirty (30) days in advance of said hearing date, and further provided that such Member may appeal any such decision of said Board of Directors to the membership of the Associates by such affected Member calling a special meeting of the membership of the Association by notice mailed to each Member at least ten (10) days in advance of the desired

special meeting date, and said notice setting forth the time, date, place and purpose of said meeting. A majority vote of the votes entitled to be cast by the Members of the Association attending such special meeting shall be necessary to override the decision of the Board of Directors, and all votes shall be by secret ballot. Notice shall be mailed by the Member via U.S. Certified mail, postage prepaid, return receipt requested.

ARTICLE XI

AUTHORITY OF MEMBERSHIP

- 11.1 Authority of Membership to Overrule Board of Directors: The action of the Board of Directors may be overruled by a majority of votes entitled to be cast by the Members who are voting in person or by proxy at a meeting called by five or more Members in good standing, notice of which meeting shall be mailed to all Members at the last known mailing address of each Member at least fifteen (15) days in advance, and shall set forth the purpose of the meeting.
- 11.2 No Detriment to Third Parties: No action by the Members overruling the Board of Directors shall be effective to cause a detrimental effect on any third parties relying on prior action of the Board of Directors, nor shall any members of the Board of Directors be liable for damages for any action subsequently overruled at any membership meeting except for intentional acts of fraud or bad faith.

ARTICLE XII

INDEMNIFICATION

- 12.1 General: The Association shall indemnify and hold harmless each of its directors and officers, each member of any committee appointed pursuant to the By-Laws of the Association, the Board and the Developer and its successors in interest against all contractual and other liabilities to other arising out of contracts made by, or other acts of such directors, Board, officers, committee members or Developer, on behalf of the Lot Owners, or arising out of their status as directors, Board, officers, committee members or Developer, unless any such contract or act shall have been made fraudulently or with gross negligence or criminal intent. The Association may obtain insurance for such purposes, which shall be an expense of the Association. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including but not limited to counsel fees, amount of judgements paid, and amounts paid in settlement) reasonably incurred in connection with the defense or any claim, action, suit or proceeding, whether civil, criminal, administrative or other, in which any such director, officer Board, committee member or Developer may be involved by virtue of such persons being or have been such director, officer Board, committee member or Developer provided, however, that such indemnity shall not be operative with respect to (a) any matter as to which such person shall have been

finally adjudged in action, suit or proceeding to be liable for gross negligence or fraud in the performances of his duties as such director, officer, Board, committee member or Developer, or (b) any matter settled or compromised, unless in the opinion of independent counsel selected by or in a manner determined by the Board, there is no reasonable ground for such persons being adjudged liable for gross negligence or fraud in the performance of his duties as director, officer, Board, committee member or Developer.

- 12.2 Success on Merits: To the extent that the Board, Developer, a director, officer of the Association or member of any committee appointed pursuant to these By-laws has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Paragraph 12.1 above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him in connection therewith.
- 12.3 Expenses in Advance of Disposition: Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized in the specific case upon receipt of an undertaking by or on behalf of the director, officer, Board, committee member or Developer to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article.
- 12.4 Non-Exclusive Remedy: The indemnification provided by this Article XII shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of Members of the Association or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. Such right to indemnification shall continue as to a person or entity who has ceased to be Developer, a director, an officer of the Association or a member of such committee, and shall inure to the benefit of the heirs, executors, administrators, personal representative, successors and assigns of such person or entity.

ARTICLE XIII

AMENDMENTS

- 13.1 Any and all of the provisions contained in these By-laws may be changed or amended by an instrument in writing, drafted so as to be recorded with the Registrar of Deeds in Washington County, Arkansas, and signed by the Secretary of the Association.

ARTICLE XIV

INVALIDATION

- 14.1 Governing Laws: This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Arkansas.
- 14.2 By Court Order: Invalidation of any portion of these By-laws by judgement or court order shall in no wise effect any of the other provisions herein contained.
- 14.3 Conflict of Provisions: Where any provision herein is in conflict with any resolution or regulation of the Association, the provisions herein shall control.

ARTICLE XV

NOTICE

- 15.1 Notice by Mail and Waiver of Notice: Unless otherwise expressly provided herein, notice shall be effective when mailed postage prepaid, first class mail, to the person entitled to notice at the last known address of such person reflected by the records of the Association. Any notice required may be waived by waiver signed by the person entitled to notice or by the attendance of the person who is entitled to notice at any meeting where notice is required.
- 15.2 Notice by Personal Service: Notice may be given to any person entitled to same by delivery of a copy of such notice by an officer or director of the Association (or agent thereof) to the person entitled to notice, with the officer or director delivering such notice to certify on a copy thereof. Said copy shall be maintained in the records of the Association.
- 15.3 Person Entitled to Notice: The person entitled to notice shall be the person indicated by the books and records of the Association to be the person entitled to the voting rights for each of the said Lots and proper notice to such person shall be deemed to be the prior notice to all other Owners of any interest in a Lot. Notice of all meetings shall be given no more than forty-five (45) days and no fewer than fifteen (15) days in advance of said meeting.

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