

2006 17376
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Brenda DeShields-Circuit Clerk
Benton County, Ark
Blk/P: ARKANSAS

**DECLARATION OF COVENANTS OF ASSURANCE
AND RESTRICTIONS OF THE EDEN'S BROOKE SUBDIVISION
PHASES II, III AND IV, TO THE CITY OF BENTONVILLE, ARKANSAS**

KNOW ALL MEN BY THE PRESENTS:

WITNESS:

WHEREAS, the undersigned (herein referred to as Developer) is now the owner of all of property referenced in Exhibit A, attached hereto and incorporated herein, which property shall soon be subdivided into the lots of the Eden's Brooke Subdivision, Phases II, III and IV, and in, and shall be reflected upon a plat of said subdivision which plat shall be recorded and filed in the Plat Records of Benton County, Arkansas, in the office of the Circuit Clerk and Ex-Officio Recorder of Benton County, Arkansas, and which plat, once recorded, shall be made a part of this Declaration, by reference, and this Declaration is likewise made apart by reference of said plat;

NOW, THEREFORE, the Developer declares that the real property described herein, and the soon-to-be-created lots on such property and in said Eden's Brooke Subdivision, Phases II, III and IV, are and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth or as hereinafter changed or amended.

ARTICLE I

PROPERTY SUBJECT TO THIS DECLARATION

1.1. The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to this Declaration, is located and situated in Benton County, Arkansas, and which subdivision is located on the following lands, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN.

ARTICLE II

DEFINITIONS

2.1. The following terms as used in this Declaration of Covenants of Assurance and Restrictions are defined as follows:

a. "Declaration" means this Declaration of Covenants of Assurance and Restrictions for the Eden's Brooke Subdivision, Phases II, III and IV, to the City of Bentonville, Arkansas.

b. "Property" means the Eden's Brooke Subdivision, Phases II, III and IV,

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Total Fees: \$ 41.00

to the City of Fayetteville, Arkansas. as the same may be shown on the plat referenced hereinabove and recorded in Benton County, Arkansas.

c. "Lot" means any numbered Lot designated on the Plat of the property, except as may be herein excepted.

d. "Plat" means the map of the plat of the Eden's Brooke Subdivision, Phases II, III and IV, to the City of Bentonville, Arkansas, as it is recorded.

e. "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 this Declaration, except that such term shall not mean Developer regardless of whether Developer has a fee simple interest in any lot.

f. "Developer" shall mean and refer to Dixie Management & Investment, LP.

g. "Subdivision" shall mean the Eden's Brooke Subdivision, Phases II, III and IV, to the City of Bentonville, Arkansas, as per a plat on file in the office of the Circuit Clerk, and EX-Officio Recorder of Benton County, Arkansas.

h. "Association" shall mean and refer to the Eden's Brooke Homeowners Association, organized and existing pursuant to the laws of the State of Arkansas.

I. "Common Properties" shall mean and refer to those real properties owned by or hereafter acquired by the Association, including, but not limited to, the Detention Basins as the same are shown on the Plat. Common properties are intended to be devoted to the common use and enjoyment of owners of the properties.

j. "ARC" shall mean and refer to the Architectural Review Committee as established and maintained by the Association. Initially the ARC shall consist of Dixie Management & Investment, LP.

ARTICLE III

RESTRICTIONS ON RESIDENTIAL LOTS

3.1. **Fences:** Only fences constructed of wood or wrought iron may be installed. There shall be no other fences allowed. In no event shall any fence be built which would detract from the appearance or obstruct visibility of the entry signs to the Property. All privacy fences shall be constructed so that the framing shall be toward the inside of the owner's Lot and shall be constructed at a height of six (6) feet to maintain

uniformity. Any fence, once constructed, must be maintained by the property owner who had it constructed or their successor-in-interest.

3.2. Nuisances: No noxious or offensive activities or nuisances shall be permitted on any Lot or Parcel.

3.3. Signs: No person shall erect or maintain upon any Lot, or improvement thereto, any sign or advertisement, except a real estate sign when the property is listed for sale, provided, however, that this restriction shall not apply to Developer during development and construction of the Subdivision.

3.4. Animals: No animals shall be kept or maintained on any Lot except the usual household pets which shall be kept reasonably confined so as not to become a nuisance and all Owners shall comply with applicable laws; ordinances and regulations concerning animals.

3.5. Garbage and Refuse Disposal: No Owner shall accumulate on his or her Lot litter, refuse or garbage, except in approved receptacles. All Owners shall be required to have a mandatory trash pick up as provided or required by the City of Bentonville, Arkansas.

3.6. Drilling and Mining: No drilling, refining, quarrying or mining operations of any kind shall be permitted on any Lot.

3.7. Communications Towers and Satellite Dishes: No communications mast, tower, or structure may be installed on any Lot, except that satellite dishes may be installed only on the rear roof of a dwelling and shall not exceed the height of the lowest roof ridge line of such dwelling.

3.8. Parking on the Streets: No vehicles may be parked overnight in the streets of the Subdivision. Owners shall provide sufficient off-street parking to accommodate the vehicles used by their families and guests. Furthermore, no semi-trailer trucks or commercial vehicles shall be allowed to park in the Subdivision, either on the streets or on the Lots, provided, however, that this restriction shall not apply to Developer during construction and development of the Subdivision.

3.9. Structures Other than Dwellings: No trailer, mobile home, tent shack, recreational and camping vehicles, trailers, boats or other unsightly building or structure, temporary or permanent, shall be erected or used on said lots. The restrictions contained in this section shall not apply to the Developer during construction and development of the Subdivision.

3.10. Structures other than Dwellings: No trailer, mobile home, tent, shack, recreational and camping vehicles, boats, or other unsightly building or structure, temporary or permanent, shall be erected or used on said lots. The restrictions contained in this section shall not apply to the Developer during construction and development of

the Subdivision.

3.11. Minimum Square Footage: All Dwellings in the Subdivision shall have a minimum of one thousand five hundred fifty (1,550) square feet of heated area. The minimum square footage requirement is exclusive of garages, porches, patios and decks.

3.12. Restriction of Type of Dwelling: There shall be no Dwellings erected on any Lot other than a detached single family dwelling having at least a two-car enclosed garage.

3.13. Approval of Plans by ARC: All plans for improvements to be constructed on each Lot shall be first submitted for review and approval by the ARC. Approval by the ARC must be obtained in writing before construction of any improvement on any Lot begins and any variances to the improvement initially approved must be authorized in writing by the chairman of the ARC.

3.14. Exterior of Dwelling: The exterior of all Dwellings erected on the Lots shall be of a masonry veneer construction to the extent that the exterior of each such Dwelling is at least sixty percent (60%) masonry veneer, excluding windows and doors. Stucco-like, EIFS materials may be used on dwellings below the plate line if approved by the ARC. There shall be no man-made siding, such as masonite, metal, vinyl, etc., however, such siding restrictions shall not apply to gables or the rear elevation of the dwelling (i.e. the opposite side of the dwelling from that which faces the street). Notwithstanding the foregoing, however, a waiver may be granted by the ARC, in its sole discretion, to the exterior restrictions herein contained for any particular Dwelling prior to the construction thereof.

3.15. Lot maintenance and sod: All Lots shall be maintained, mowed and kept free of noxious weeds whether they be improved or unimproved. Further, upon construction of a dwelling, the Owner shall sod the lawn area of the Lot from the front of such dwelling to the curb line, provided, however, that this section shall not apply to Developer during construction and development of the Subdivision.

3.16. Platted easements: All Lots are subject to easements that are shown on the Plat, including, but not limited to, easements for fences and entry signs.

3.17. Covenants to Run with the Land: All covenants and restrictions set forth in this Declaration are to run with the land and shall be binding on all parties, their successors, heirs and assigns, for a period of fifty (50) years from the date this Declaration is recorded, provided, however, that after a period of five (5) years from the date this Declaration is recorded, the covenants and restrictions may be amended at any time by the record owners of at least sixty (60) percent of the total Lots in the Subdivision. Such amendments shall be made and executed by said record owners so as to be recorded with the registrar of deeds of Benton County, Arkansas.

Provided, further, that after the expiration of the fifty (50) year period set forth above and any time within six (6) months from said expiration, a majority of the Lots,

through their record owners, may express their intention, in writing, so drafted and executed is to be recorded with the registrar of deeds in Benton County, Arkansas, that they no longer care for the covenants, and the same shall then be terminated. In the event that no action is taken within the prescribed time, this Declaration shall continue for additional periods of ten years, and for any such ten year period, said covenants may be terminated in accordance with the terms for the original termination. It is further provided that this Declaration may be amended after the expiration of the time periods as set forth in this paragraph, either by adding to or taking from said Declaration in their present form, providing that said amendment or amendments shall be incorporated in a written instrument executed by no less than a majority of the Lots, through their record owners, and which instrument shall be capable of being recorded as above referred to under the same terms and conditions thereof.

ARTICLE IV

HOMEOWNERS ASSOCIATION AND COVENANT AND PLAN FOR MAINTENANCE AND OTHER ASSESSMENTS

4.1. Homeowners Association: The Eden's Brooke Homeowners Association (referred to herein as "Association") has been or will be formed as an unincorporated association. All Lot Owners must be members of the Association and each shall automatically become a member of the Association upon the conveyance of a lot to him or her. The Association shall be governed by By-Laws accepted and approved by the Association.

All association memberships will pass with Lot ownership in the Subdivision. All Lots will carry one (1) vote in the Association, except that the Developer shall have four (4) votes per Lot which Developer owns.

4.2. 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 and other purposes, such assessments to be fixed, established and corrected from time to time as hereinafter 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 land and shall be a continuing lien upon the property 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 any annual or special assessment.

4.3. Purpose 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 addition, 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 covenants and restrictions of the Subdivision.

4.4. Basis & Maximum of Annual Assessments: The annual assessment for each lot shall be \$25.00. An Owner's first such assessment shall be prorated and paid to the Association at closing according to time of conveyance of a Lot 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 of the Association 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 percent (25%) above the prior year's annual assessment. Said annual assessment shall be payable in advance on the 1st day of January each year. The Board of Directors may, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount.

4.5. Special Assessments for Capital Improvements: In addition, to the annual assessments authorized hereinabove, 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 of 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 of the Association 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 set forth the purpose of the meeting.

4.6. Change in Basis of Maximum of Annual Assessments: Subject to the limitations of 4.4 hereof, and for the purposes therein specified, the Association may change the maximum and basis of the assessments fixed by 4.4 hereof prospectively for any such period, provided that any such change 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, 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.

4.7. Quorum for any Action Authorized Under Sections 4.5 and 4.6:
The quorum of any action authorized by Sections 4.5 and 4.6 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 4.5 and 4.6.

4.8. Late Payment of Assessments: As hereinabove provided, each

annual assessment shall be due and payable on the 1st day of January of each year. In the event of 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 this Declaration and the By-laws of the Association. 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 reasonable attorney's fees therefore, shall also be assessed.

The due date of any special assessment under 4.5 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.

4.9. Duties of the Board of Directors: In addition to the other duties of the Board of Directors as may be set forth herein or in the By-laws of the Association, the said 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. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

4.10. Effect of Non-Payment of Assessment and the Lien Remedies of the Association:

If the assessments (annual or special) are not paid on the date when due, then such assessment shall become delinquent as provided in 4.4 hereof and shall, together with such interest, late charges thereon and costs of collection thereof as herein provided, thereupon become a continuing lien on the lot which shall bind such lot in the hands of the then owner, its successors, heirs, devisees, personal representatives and assigns. If the assessment is not paid as provided herein, it shall bear interest from date of delinquency at the maximum rate of interest allowed by law, and the Association may foreclose the lien against said lot, and there shall be added to the amount of such assessment the cost of attorney fees in connection with any court proceedings arising therefrom, together with all court costs, late charges and expenses incurred by the Association.

4.11. 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.

4.12. Suspension of Rights of Membership: Prior to the foreclosure of

any lien upon any lot subject to this Declaration, the Board of Directors of the Association may elect to suspend all membership rights of any member or members of the Association who are delinquent in any payment due to the Association for more than thirty (30) days, with such suspension to continue for so long as any such delinquency exists. Further, the Board of Directors may suspend membership rights for a period not to exceed thirty (30) days for the infraction of any rules 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.

4.13. Cancellation and Hearing: The said Board of Directors may elect to permanently cancel the membership and all membership rights of any member who is delinquent in any payment due to the Association for more than ninety (90) days or when such member, family of the member, or guest of the member are guilty of repeated or flagrant violation(s) after a 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 Association 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 V

PROPERTY RIGHTS OF THE COMMON PROPERTIES

5.1. 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, 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.

5.2. Extent of Members' Rights 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 if necessary to have other relief its

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; 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 granted 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 VI

MISCELLANEOUS

6.1. Violations: If the parties hereto, or their heirs, successors or assigns or any other person shall violate or attempt to violate any of the covenants or restrictions herein while said covenants or restrictions are still in force, it shall be lawful for any person or persons owning any interest in any Lot or Lots in the Subdivision, as well as the Association, to prosecute any violation or attempted violation of any such covenant or restriction, either to prevent the person from doing so or to recover damages or other penalties and costs, including reasonable attorney's fees for such violation.

6.2. Notices: Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

6.3. Additional Phases: The Developer reserves, unto itself, the right, without joinder or consent of any Owner, Builder or Mortgagee, to file additional plats in the office of the Circuit Clerk and Ex-Officio Recorder of Benton County, Arkansas to add additional phases which shall be subject to this Declaration.

**EXHIBIT "A" TO
DECLARATION OF COVENANTS OF ASSURANCE
AND RESTRICTIONS OF THE EDEN'S BROOKE SUBDIVISION,
PHASES II, III, AND IV,
TO THE CITY OF BENTONVILLE, ARKANSAS**

LEGAL DESCRIPTION - Eden's Brooke Ph I - LOT 1:

PART OF THE NE1/4 OF THE SE1/4 OF SECTION 12, TOWNSHIP 19 NORTH,
RANGE 31 WEST, CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS,
BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE NE CORNER OF THE NW1/4 OF THE SE1/4 OF SAID
SECTION 12; THENCE S87E18'54"E 447.36 FEET, THENCE S02E45'15"W 42.00
FEET TO THE POINT OF BEGINNING; THENCE S87E07'36"E 171.43 FEET;
THENCE S05E20'27"W 166.38 FEET; THENCE ALONG A CURVE TO THE RIGHT
128.82 FEET, WITH A CHORD OF S13E06'41"W 128.44 FEET AND A RADIUS OF
475.00 FEET; THENCE S20E52'54"W 22.06 FEET; THENCE S69E07'06"E 52.00
FEET; THENCE S20E52'54"W 5.27 FEET; THENCE ALONG A CURVE TO THE
LEFT 150.07 FEET, WITH A CHORD OF S11E48'07"W 149.45 FEET AND A
RADIUS OF 473.50 FEET; THENCE S02E43'20"W 342.64 FEET; THENCE ALONG
A CURVE TO THE RIGHT 120.15 FEET, WITH A CHORD OF S47E42'52"W 108.17
FEET AND A RADIUS OF 76.50 FEET; THENCE N87E17'36"W 33.59 FEET;
THENCE S02E42'24"W 128.50 FEET; THENCE N87E17'36"W 495.04 FEET;
THENCE N02E43'32"E 615.42 FEET; THENCE S87E18'13"E 447.15 FEET; THENCE
N02E45'15"E 414.91 FEET TO THE POINT OF BEGINNING, AND CONTAINING
9.746 ACRES, MORE OR LESS, AND SUBJECT TO ANY RIGHTS-OF-WAY,
EASEMENTS, COVENANTS, OR RESTRICTIONS OF RECORD OF FACT.

SURVEY DESCRIPTION LOT 1 ENSIGN ADDITION:

LOT 1 OF ENSIGN ADDITION TO THE CITY OF BENTONVILLE, BENTON
COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS
FOLLOWS;

BEGINNING AT A POINT WHICH IS N87E07'36"W 75.00 FEET FROM THE NE
CORNER OF THE NW1/4 OF THE SE1/4 OF SAID SECTION 12; THENCE
S02E43'30"W 644.51 FEET; THENCE S88E48'40"W 314.86 FEET; THENCE
S02E43'36"W 645.56 FEET; THENCE S86E58'49"E 389.13 FEET TO THE EAST
LINE OF THE W1/2 OF THE SE1/4 OF SAID SECTION 12; THENCE ALONG SAID
EAST LINE S02E43'32"W 1321.98 FEET TO THE SOUTH LINE OF SAID SECTION
12; THENCE ALONG SAID SOUTH LINE N87E01'36"W 660.01 FEET; THENCE
LEAVING SAID SOUTH LINE N02E39'38"E 2634.21 FEET TO THE NORTH LINE
OF THE SE1/4 OF SAID SECTION 12; THENCE ALONG SAID NORTH LINE
S87E07'36"E 588.00 FEET TO THE POINT OF BEGINNING, AND CONTAINING

33.01 ACRES, MORE OR LESS, AND SUBJECT TO THE RIGHT-OF-WAY OF
STATE HIGHWAY 12 ON THE NORTH AND ANY RIGHTS-OF-WAY,
EASEMENTS, COVENANTS, OR RESTRICTIONS OF RECORD OF FACT.

2006 17387
Recorded in the Above
Deed Book & Page
04-04-2006 12:41:43 PM
Brenda DeShields-Circuit Clerk
Benton County, AR

Benton County, AR
I certify this instrument was filed on
04-04-2006 12:41:43 PM
and recorded in Deed Book
2006 at pages 17376 - 17387
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Brenda DeShields-Circuit Clerk
Benton County, AR
Book/Pg: 2011/41675
Term/Cashier: CASH2/Teresa Baber
08/12/2011 10:20AM
Tran: 161922
Total Fees: \$90.00

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08/12/2011

**AMENDED AND RESTATED
DECLARATION OF COVENANTS AND RESTRICTIONS
FOR THE EDEN'S BROOKE SUBDIVISION PHASES II, III, AND IV TO THE
CITY OF BENTONVILLE, ARKANSAS**

THIS AMENDED AND RESTATED DECLARATION (the "Amended Declaration") is made this 11 day of August 2011, by Bella Terra, LLC, an Arkansas limited liability company (the "Developer"), successor to Dixie Management & Investment, LP, with the consent of the owners of at least sixty percent of the total lots in the Development (defined below), and supersedes and replaces in its entirety the Declarations of Covenants of Assurance and Restrictions of the Eden's Brooke Subdivision Phases II, III and IV, to the City of Bentonville, Arkansas, which was recorded on the 4th day of April 2006 in the real-property records of Benton County, Arkansas beginning at Page 17376 of Book 2006.

WITNESSETH

WHEREAS, the Developer, with the consent of the owners of at least sixty percent (60%) of the lots in Eden's Brooke Subdivision, Phases II, III and IV, to the City of Bentonville, Benton County, Arkansas as reflected in the Plat Records of Benton County, Arkansas (herein the "Development"), and having the requisite authority pursuant to the Declarations of Covenants of Assurance and Restrictions of the Eden's Brooke Subdivision Phases II, III and IV, to the City of Bentonville, Arkansas, now wishes to amend said covenants; and

WHEREAS, the Developer desires to provide for the preservation and enhancement of value when and as the property continues to be improved and desires to subject the Development to certain additional or modified covenants and restrictions as hereinafter set forth, each and all of which are hereby declared to be for the benefits of the Development and each and every owner of any and all parts thereof; and

WHEREAS, the Developer has deemed it desirable for the efficient preservation of the values and amenities in the Development, to maintain an entity to which should be

delegated and assigned the power and authority of holding title to and maintaining and administering the Common Properties (as hereinafter defined) and administering and enforcing the covenants and restrictions governing the same and collecting and disbursing all assessments, as hereinafter created; and

WHEREAS, the EDEN'S BROOKE HOMEOWNERS ASSOCIATION, INC. (herein "EBHOA"), an Arkansas nonprofit corporation for the purpose of exercising the above functions and those which are more fully set out hereafter, has been formed;

NOW, THEREFORE, the Developer subjects the Development property to the terms of this Amended Declaration and declares that the same is and shall be held, transferred, sold, conveyed, occupies, and used, subject to the covenants and restrictions (sometimes herein "Covenants") hereinafter set forth. The covenants shall touch and concern and run with the property and each lot thereof.

ARTICLE I ARCHITECTURAL CONTROL

- 1.1 Architectural and Design Review.** In order to establish and preserve a harmonious design for the Development, to promote and protect the property values, to insure that all dwellings and accessory buildings constructed or erected shall have good quality materials and workmanship and are compatible with other dwellings and accessory buildings constructed or to be constructed in the Development, the Developer or the Architectural Control Committee (herein "ACC") of the EBHOA shall approved the details of construction plans including dwelling placements. If for any reason the EBHOA cannot make a decision, the Developer will make any and all final decisions.
- 1.2 Approval Requirements.** No building shall be erected, placed, or altered on any lot until the construction plans and specifications of a plan has been approved by the Developer and/or ACC. Such plans shall be submitted for approval at least fifteen (15) days prior to the planning commencement of the same, and the written approval of the ACC or the Developer shall be required before construction. Should any plans be submitted fail to be approved or disapproved within the time herein provided, or in any event, if no suit to enjoin the construction proposed is commenced prior to or within thirty (30) days of the final completion thereof, approval will not be required, and the related Covenants shall be deemed to have been fully complied with.
- 1.3 Approval Guidelines and Limitations.** Approval of any proposed plans submitted shall be withheld unless such plans and specifications comply with the applicable covenants. Approval of plans and specifications by the ACC or the

Developer is for the mutual benefits of all the Development's property owners and is not intended to be, and shall not be construed as, and approval or certification that the plans and specifications are technically sound or correct from an engineering or architectural viewpoint. Each property owner shall be individually responsible for the technical aspect of the plans and specifications.

ARTICLE II COVENANTS, USES, AND RESTRICTIONS

- 2.1 Construction Restrictions.** Improvements constructed on every Lot (as used herein, "Lot" means a subdivided lot of the Development as shown in the plat records of Benton County, Arkansas) must comply with the Developer's, the ACC's, or the EBHOA's restrictions, guidelines, and standards including but not limited to the following:
- 2.1.1 Use.** The provisions of the City of Bentonville specific codes shall govern all lots and regulations governing residential single-family dwellings on the date of the subdivision plat were approved. Any conflict between such ordinances and the provisions of these Covenants shall be resolved in favor of the more restrictive provisions.
 - 2.1.2 Size.** No dwelling structure shall be constructed on any lot within the Development of a size less than 1,800 square feet of heated and cooled living space with a minimum of 1,300 square feet of heated and cooled living space on the first floor of two-story structures, without the approval of the ACC or the Developer.
 - 2.1.3 Garages.** All dwellings shall have a primary attached garage for not less than two (2) cars.
 - 2.1.4 Driveways.** All dwellings shall have a driveway at least sixteen (16) feet wide and shall be constructed of concrete or other material approved by the ACC or Developer.
 - 2.1.5 Building Exteriors.** All building exteriors must be at least 85% brick or stone approved by the ACC or the Developer.
 - 2.1.6 Roofs.** All roofs must have a main pitch roofline of no less than 8/12. All homes and accessory buildings must use architectural roofing shingles in the colors of Black or Weather wood unless approved by the ACC or the Developer.

- 2.1.7 Setback.** No building shall be constructed on any lot nearer than: (1) twenty (20) feet to the front line; (2) twenty-five (25) feet to the rear lot line; (3) twenty (20) feet to the exterior side lot line; (4) seven (7) feet to the interior side lot line. Should any setback lines shown upon the Eden's Brooke Subdivision plat vary from the setback requirements required herein, the building setback lines shown on the said plat shall control and take precedence over those stated herein. Variances to the setback requirements established herein may from time to time be permitted by the City of Bentonville shall take precedence and be controlling.
- 2.1.8 Fences.** No fences will be allowed until approved by the ACC or the Developer. The approval requirements outlined in section 1.02 for building shall also apply to fences. Fencing of front yards is prohibited. Fencing on corner lots may extend to, but not beyond, the exterior side setback lines established in section 2.0.7 and shall not infringe on neighbor's lot's front yard setback. No fences shall exceed six (6) feet in height. The ACC or the Developer shall approve all fencing material. Chain link and other forms of wire fencing are prohibited.
- 2.1.9 Vehicle Parking.** All vehicles, except recreational vehicles and equipment, owned by lot owners, shall be parked only in the lot owner's garage or driveway. Recreation vehicles and equipment, including but not limited to boats, motor homes, travel trailers, campers and the like shall not be parked or stored within the sight of said neighbors or the street.
- 2.1.10 Signs.** No signs either permanent or temporary of any kind shall be placed or erected on any property, without the consent of the ACC or the Developer, unless signage upon property advertises the same for sale, and does not exceed six (6) square feet in area. Provided however, that the Developer and approved builders may erect signs to advertise the Development and model or new homes. No for-rent signs are allowed.
- 2.1.11 Accessory Structures.** Accessory buildings, swimming pools, cabana structures and gazebos may be built within the building are on any lot subject to the approval of the ACC or the Developer. The approval requirements outlined in subsection 1.02 for building shall apply to these structures. Accessory buildings shall be restricted to one (1) per lot, no larger than twenty (20) feet by fourteen (14) feet, and designed to be compatible with existing dwelling. Swimming pools, cabana structures and gazebos shall be restricted to one (1) each per lot and designs that are compatible with the existing dwelling. Above ground pools are prohibited.

- 2.1.12 Antennas.** No television antenna, dish, radio receiver or sender or other similar device shall be attached to or installed on the exterior portion of any dwelling or other structure within the Development without the approval of the ACC or the Development lot which may unreasonably interfere with the reception of television or radio signals upon any other Development properties.
- 2.1.13 Animals.** No animal, bird, fish, reptile, insect, livestock, or poultry of any kind shall be maintained, raised, bred, or kept on any lot, except that dogs, cats, or other household pets may be kept and maintained provided that they are not for any commercial purpose. Household pets shall be maintained in a clean and sanitary situation and shall not disturb the peaceful enjoyment of residents of other lots. No pet may be permitted to bark, howl, whine, screech, or make other noxious noises for extended or repeated periods of time. Each household is limited, with respect to dogs and cats, no more than: two (2) dogs; two (2) cats; or one (1) dog and one (1) cat. Dogs must be considered tame. No reptiles shall be kept as pets. No pet is allowed on the Common Properties (as defined further herein) unless carried or leashed. Owners and Residents are responsible for the removal of their pets' wastes from the property and must prevent their pets from relieving themselves on Common Properties or on other owners' properties.
- 2.1.14 Easements.** Perpetual easements have been reserved, as shown on the approved plat, for the construction and maintenance of utilities and drainage, and no permanent structure of any kind shall be erected or maintained upon or over said easements.
- 2.1.15 Home Occupations.** Home occupations as defined by the City of Bentonville shall be prohibited.
- 2.1.16 Nuisances.** No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereupon which may be or may become an annoyance or nuisance to the neighborhood. Grass, trees, and various vegetations shall be kept neatly cut and maintained. Lawns shall be maintained with grass height not to exceed six (6) inches from the ground surface. Driveways, sidewalks, and any other like items are to be edged at least two (2) times a month during the mowing season. Fences or other outside structures or outdoor decoration shall be maintained so as not to become unsightly or an annoyance or nuisance to the neighborhood. Upon owner's failure to comply with this subsection, the ACC, EBHOA, or the Developer may perform, or have performed the necessary action to remedy

the problem, and shall be entitled to recover the expense associated with such remedial action from the offending owner.

2.1.17 Building Materials. No building material of any kind or character shall be placed or stored upon any lot until the owner is ready to commence construction of the improvements requiring such materials. Building materials shall not be placed to stored in the street or between the curb and property lines. Upon completion of the improvements requiring such materials, all remaining building materials and refuse shall be removed from the subdivision. This pertains to homes that been issued a Certificate of Occupancy by the City of Bentonville.

2.1.18 Inoperative Vehicles. No vehicle, bus, tractor, or other conveyance or rig, or lawn-grass apparatus, shall be left inoperative on any lot for a period of more that one (1) day.

2.1.19 Sight Distance at Intersections. No fence, wall hedge or shrub, which obstructs sight lines at intersections within the subdivision, shall be permitted.

2.1.20 Sound Devices. No exterior speaker, horn, whistle, bell, or other sound device, which unreasonably loud or annoying except security devices used exclusively for security purposes, shall be located or placed upon lots in the subdivision. The playing of loud music from porches or decks shall be considered offensive, obnoxious activity constituting a nuisance.

2.1.21 Laundry. The hanging of laundry from any are within or outside a residence, which places the laundry within public view, is prohibited.

2.1.22 Landscaping. The front, side, and back yards will be sodded with Bermuda within 90 days after completion of construction, weather conditions permitting. Shrubs shall be placed in front of homes to give an appealing appearance and each lot shall have a minimum of one (1) tree in the front yard with a minimum 1 ½ inch diameter in size.

2.1.23 Garage Sales. Garage sales shall only be held semi-annually and only as a neighborhood event. The dates of the sales will be determined by the EBHOA.

2.1.24 Address Stones. All homes to have an address stone with the house number address to be chosen by the Developer.

- 2.1.25 Trash Containers.** Trash, garbage, refuse containers may not be placed at the curb for pickup no earlier that twenty-four (24) hours prior to pickup and are to be moved from the curb at the end of the day that the waste company services the Development. All garbage containers must be stored in such a way that they are not visible from the street.
- 2.1.26 Fireplaces.** No wood burning fireplaces will be allowed. Vented or non-vented gas fireplaces will be the only types allowed unless otherwise approved by the EBHOA or the Developer.
- 2.1.27 Mailbox.** Group mailboxes only will be allowed. They will be installed and positioned through out the developments per the United States Postal Service.
- 2.1.28 Seasonal Lighting and fixtures.** Seasonal or holiday lighting and fixtures may be installed thirty (30) days prior to that season and must be removed within 15 days after the holiday date or season.
- 2.1.29 Basketball goals, other sporting or recreational equipment.** Basketball goals and other sporting or recreational equipment may not be attached, mounted or installed in any part of an unfenced yard or on a driveway without the approval of the ACC, EBHOA, or the Developer.

ARTICLE III COMMON PROPERTIES

- 3.1 Common Properties Defined.** "Common Properties" shall mean and refer to those tracts of land and improvements thereon which are deeded to the EBHOA and designated in said deed as "Common Properties" and any personal property acquired by the EBHOA if said property is designated as "Common Property." All Common Properties are intended for and are to be devoted to the common use and enjoyments of the Lot owners and their guests. The Common Properties shall include but not be limited to the entry to the development, any park area, pool and clubhouse are, and streetlights and street signs.
- 3.2 Management of Common Properties.** The EBHOA is empowered to maintain and manage the Common Properties for the use and enjoyment of the Lot owners, and may prescribe rules and reasonable restrictions on the use thereof including but not limited to setting hours of use, restricting the numbers of guests allowed, limiting noise, and creating other rules.

ARTICLE IV ASSESSMENTS

- 4.1 Assessments.** On or before the first day of January of each year, the EBHOA Board (or the Developer if the transfer of governing authority from Developer to the EBHOA has not yet taken place as described in the EBHOA By-laws) will adopt a budget for the upcoming year. The budget will establish the total amount of annual assessments on all Lots in the Development owned by parties other than the Developer. The amount of annual assessment for each Lot will be Three Hundred Eighty Dollars (\$380.00).
- 4.2 Allocation of assessments.** The amount of the annual assessments on the Lots may be increased or decreased by the affirmative vote of at least seventy-six percent (76%) of owners of Lots who are in attendance or represented by proxy at any annual or special meeting of the EBHOA duly called for such purpose. At any such meeting, the Developer shall have four (4) votes for each Lot then owned by the Developer.
- 4.3 Commencement of Assessments.** The annual assessments provided for herein shall commence on the date (which shall be the first day of the month) fixed by the Developer to be the date of commencement.
- 4.4 Pro Rata Assessments.** The amount of the first annual assessment shall be based pro rata upon the balance of the calendar year and shall become due and payable on the closing of the lot with home. The assessments for any year, after the first year, shall become due and payable on the first day of February of the said year.
- 4.5 Statements.** On the first business day after the adoption of the budget for the upcoming year (or as soon as practicable thereafter) the EBHOA or Developer shall mail a statement to each owner informing him or her of their annual assessment and the due date for payment thereof.
- 4.6 Late fees.** The Developer or EBHOA shall be authorized to charge a late fee of ten percent (10%) of the outstanding annual assessment to any Lot if the owner fails to pay any assessment on or before the due date thereof.
- 4.7 Assessment Lien.** Each owner by accepting an interest in or title to a Lot, whether or not it is so expresses in the instrument of conveyance, covenants and agrees to pay assessments to the EBHOA. Each assessment is a charge on the Lot and it secured by a continuing lien on the Lot. Each owner, and each prospective

owner, is placed on notice that his title may be subject to the continuing lien for assessments attributable to a period prior to the date he purchased his Lot.

- 4.8 Superiority of Assessment Lien.** The assessment lien is superior to all other liens and encumbrances on a Lot, except for: (1) real property taxes and assessments levied by governmental and taxing authorities; (2) a recorded deed of trust lien securing a loan for construction of the original dwelling; and (3) a first or senior purchase money vendor's lien or deed of trust lien recorded before the date on which the delinquent assessment became due.
- 4.9 Effect of Foreclosure.** Foreclosure of a first or superior lien extinguishes the EBHOA's claim against the lot for unpaid assessments that became due before the sales, but does not extinguish the EBHOA's claim against the former owner. The purchaser at the foreclosure sale is liable for assessments coming due from and after the date of the sale, and for the owner's pro rata share of the pre-foreclosure deficiency as an EBHOA expense. If an owner fails to pay assessments due to the EBHOA, the owner may lose title to the lot if the EBHOA forecloses its assessment lien against the lot.
- 4.10 Perfection of Lien.** The EBHOA's lien for assessments is created by recordation of the declaration, which constitutes record notice and perfection of the lien. No other recordation of a lien or notice of lien is required. However, the EBHOA at its option may cause a notice of the lien to be recorded in the Benton County real-property records. If the debt is cured after a notice has been recorded, the EBHOA will record a release of the notice at the expense of the lot owner.
- 4.11 Power of Sale.** By accepting an interest or title to a lot, each owner grants to the EBHOA a private power of non-judicial sale in connection with the EBHOA's assessment lien. The board may appoint, from time to time, an office, agent, trustee, substitute trustee, or attorney to exercise the power of sale on behalf of EBHOA. The appointment must be in writing and may be in the form of a resolution recorded in the minutes of the board meeting.
- 4.12 Foreclosure Lien.** The assessment lien may be enforced by judicial or non-judicial foreclosure. A non-judicial foreclosure must be conducted in accordance with the provisions applicable to exercise the powers of sale set forth in the Arkansas Code, or in any manner permitted by law. In any foreclosure, the owner is required to pay the EBHOA's cost and expenses for the proceedings, including reasonable attorney's fees; the association lease, mortgage, and convey the same.
- 4.13 EBHOA Right to Borrow Money.** The EBHOA is granted the right to borrow money, subject to the consent of the owners representing at least a majority of the votes in the EBHOA and the ability for the EBHOA to repay the borrowed funds

from assessments. To assist its ability to borrow, the EBHOA is granted the right to encumber, mortgage, pledge, deed in trust any of its real or personal property, and the right to assign its right to future income, as security for money borrowed or debts incurred, provided that the rights of the lender in the pledged property are subordinate and inferior to the rights of the owners hereunder.

ARTICLE V
EFFECT OF NON-PAYMENT OF ASSESSMENTS AND VIOLATIONS OF THE
AMENDED DECLARATION

5.1 Collecting Delinquent Assessments. Owners who honor their obligations to the EBHOA should not be burdened by owners who default. The Board of Directors of the EBHOA (hereinafter the "Board") is responsible for taking action to collect delinquent assessments. An assessment is delinquent if the EBHOA does not receive payment in full by the assessment due date. Neither the Board nor the EBHOA, however, is liable to an owner or other person for its failure to inability to collect or attempt to collect the assessment. The following remedies are in addition to and not substitution for all other rights and remedies which the EBHOA has:

- A. Notice to Mortgagee.** The EBHOA may notify and communicate with the holder of any lien against a lot regarding the owner's default in payment of assessment.
- B. Interest.** Delinquent assessments are subject to interest from the due date until paid, at a rate to be determined by the EBHOA from time to time but not to exceed the maximum rate permitted by law. Interest is an individual assessment.
- C. Late fees.** Delinquent assessments are subject to reasonable later fees, at a rate to be determined by the EBHOA from time to time. Late fees are an individual assessment.
- D. Costs of Collections.** The owner of a lot against which assessments are delinquent is liable to the EBHOA to collect the delinquent assessments, including attorney's fees, and processing fees charged by the management. Collection costs are an individual assessment.
- E. Acceleration.** If an owner defaults in paying an assessment that is payable in installments, the board may accelerate the remaining installments on ten (10) days' written notice to the defaulting owner. The entire unpaid balance of the assessment becomes due on the date stated in the notice.

- F. Suspension of Use and Vote.** If an owner's account has been delinquent for at least thirty (30) days, the EBHOA may suspend the right of owners and residents to use the Common Area(s) and/or Common Services during the period of delinquency. The EBHOA may not suspend an owner or resident's right of access the lot. The EBHOA may also suspend the right to vote appurtenant to the lot. Suspension does not constitute a waiver or discharge of the owner's obligations to pay assessments.
 - G. Money Judgment.** The EBHOA may file suit seeking money judgment against an owner delinquent in payment of assessments without foreclosing or waiving the EBHOA lien for assessments.
 - H. Foreclosure of Assessment Lien.** As provided by the Declaration, the EBHOA may foreclose its lien against the lot by judicial or non-judicial means.
 - I. Application of Payments.** The EBHOA may adopt and amend policies regarding the application of payments. The EBHOA may refuse to accept partial payment, i.e., less than the full amount due and payable. The EBHOA may also refuse to accept payments to which the payer attaches conditions or directions contrary to the EBHOA's policy for applying payments. The EBHOA policy may provide that endorsements and deposit of a payment does not constitute acceptance by the EBHOA, and that acceptance occurs when the EBHOA posts the payment to the owner's account.
- 5.2 Enforcing the Amended Declaration.** The remedies in this section for breach of the Amended Declaration are cumulative and not exclusive. In addition to other rights and remedies provided by the Amended Declaration and by law, the EBHOA has the following right to enforce the Amended Declaration.
- A. Nuisance.** The result of every act or omission that violates any provision of the Amended Declaration is a nuisance, and any remedy allowed by law against a nuisance, either public or private, is applicable against the violation.
 - B. Fine.** The EBHOA may levy reasonable charges, as an individual assessment, against an owner and his Lot if the owner or resident, the owner of resident's family, guests, employees, agents, or contractors violate a provision of the Amended Declaration. Fines may be levied for each act of violation or for each day a violation continues, and does not constitute waiver or discharge of the owner's obligations under the Documents.

- C. Suspension.** The EBHOA may suspend the right of owners and residents to use Common Area(s) for any period during which the owner or resident, the owner or resident's family, guests, employees, agents, or contractors violate a provision of the Amended Declaration. A suspension does not constitute a waiver or discharge of the owner's obligations under the Amended Declaration.
- D. Self-Help.** The EBHOA has the right to enter any part of the property, including lots, to abate or remove, using force, as may reasonably be necessary, any erection, thing, animal, person, vehicle, or condition that violates the Amended Declaration. In exercising this right, the EBHOA is not trespassing and is not liable for damages related to the abatement. The EBHOA may levy its cost of abatement against the lot and owner as an individual assessment. Unless an emergency situation exists in the good faith opinion of the EBHOA, the EBHOA will give the violating owner fifteen (15) days written notice of its intent to exercise self-help. Notwithstanding the foregoing, the EBHOA may not demolish an item of substantial construction on a lot without judicial proceedings.
- E. Judicial Enforcement.** The EBHOA, as well as any owner, shall have the common-law right to enforce the terms and provisions of the Amended Declaration by any appropriate judicial process, including but not limited to injunctive relief.
- F. No Waiver.** The EBHOA and every owner have the right to enforce all restrictions, conditions, convenience, liens, and charges now or hereafter imposed by the Amended Declaration. Failure by the EBHOA or by any owner to enforce a provision of the Amended Declaration is not a waiver of the right to do so thereafter.
- 5.3 Notice of Hearing.** Before levying a fine for violation of the Amended Declaration, non-payment of assessments, or before levying an individual assessment for property damage, the EBHOA will give the owner written notice of the levy and an opportunity to be heard before the EBHOA. The EBHOA may also give a copy of the notice to the resident. Pending the hearing, the EBHOA may continue to exercise its other rights and remedies for the violation, as if the declared violation were valid. The owner's request for a hearing suspends only the levy of the fine or damage charge. The owner may attend the hearing in person, or may be represented by another person or written communication. The EBHOA may adopt additional procedures and requirements for notices and hearings.

- 5.4 Limitations of Interest.** The EBHOA, and its officers, directors, managers, and attorneys, intend to conform strictly to the applicable usury laws of the State of Arkansas. Notwithstanding anything to the contrary in this Amended Declaration, the By-laws, the EBHOA's collection policies and resolutions, or any other document or agreement executed or made in connection with any of these, the EBHOA will not in any event be entitled to receive or collect, as interest, a sum greater than the maximum amount permitted by applicable law. If from any circumstances whatsoever, the EBHOA ever receives, collects, or applies as interest any sum in excess of the maximum rate permitted by law, the excess will be applied to the reduction of the unpaid special and regular assessments, or reimbursed to the owner if those assessments are paid in full.

ARTICLE VI GENERAL PROVISIONS

- 6.1 Duration of Covenants.** These covenants shall run with and bind the land and shall insure to the benefit of and be enforceable by the EBHOA, the Developer or lot owners, their respective legal representative, heirs, successors, and assigns, and shall be effective for a period of twenty (20) years following the effective date thereof, and may be continued thereafter as provided by Arkansas law.
- 6.2 Binding Effect and amendments.** These Covenants may be amended at any time upon an affirmative vote of Seventy-Six Percent (76%) of the votes entitled to be cast. It is expressly required that each lot owner be given one vote, and the Developer shall be entitled to Four (4) votes for each lot then owned by the Developer. Furthermore, no amendments shall be allowed which would be in violation of any Federal, State, or County regulation.
- 6.3 Servility.** Invalidations of any restriction set forth herein, or any part thereof, by any order, judgments, or decree or any court, or otherwise, shall not invalidate or affect any other restriction, or any part thereof, as set forth herein, but shall remain in full force and effect.
- 6.5 Violations.** In the event of any violations or attempt to violate any of the Covenants herein, it shall be lawful for any person, persons, or entity owning any lots in the Development, including the developer, the EBHOA, and the ACC, to prosecute any proceedings with law or in equity against a person or persons violating or attempting to violate such Covenants, and either prevent him or them from so doing and/or to recover damages for such violations. Provided further, however, that the Developer, the EBHOA, or the ACC shall first advise any violator of said violations prior to legal action being taken. The Developer, the

EBHOA, or the ACC shall receive from residents any complaints as to violations of the Covenants, and shall reasonably notify any violator prior to legal actions being taken.

ARTICLE VII ASSOCIATION RIGHTS

- 7.1 Architectural Control Committee.** The ACC will consist of the Developer and any builders chosen to build new homes within said subdivision.
- 7.2 Eden's Brooke Homeowners Association.** The duties and powers of the EBHOA are those set forth in the Covenants, Articles of Incorporation, and By-laws as they may be amended from time to time (collectively, the "Documents"), together with the general and implied powers of a homeowners association and nonprofit corporation organized under the laws of the State of Arkansas. Generally, the EBHOA may do any and all things that are lawful and necessary, proper, or desirable in operating for peace, health, comfort, and general benefit of its lot owners, subject to the limitations on the exercise of such powers in the Documents.
- 7.3 Governance.** The Board elected by the lot owners will govern the EBHOA. Unless the EBHOA By-laws or Articles of Incorporation provide otherwise, the Board will consist of at least three (3) persons elected at the annual meeting of the EBHOA, or at a special meeting called for that purpose. The EBHOA will be administered in accordance with the By-laws. Unless the Documents provide otherwise, any action requiring approval of the EBHOA may be approved in writing by owners of at least a majority of the lots, or at a meeting of the EBHOA representing a majority of the votes that are presented at the meeting.
- 7.4 Voting.** Each lot has one (1) vote, except the lots owned by the Developer have four (4) votes. The vote or votes appurtenant to each lot may not be divided and must be cast in unison. Cumulative voting is not allowed. Written proxy, according to the requirements of the EBHOA By-laws, may cast votes.
- 7.5 Books & Records.** The EBHOA will maintain copies of the documents and the EBHOA books, records, and financial statements. Books and records of the EBHOA will be made available for inspection and copying during regular business hours and upon reasonable request.
- 7.6 Indemnification.** The EBHOA indemnifies every officer, director, and committee member (for purposed of this section "Leaders") against expenses, including attorney's fees, reasonably incurred by or imposed on the Leader in connection

with an action, suit, or proceeding to which the Leader is a party by reason of being or having been a Leader. A Leader is not liable for a mistake of judgment, negligent or otherwise. A Leader is liable for his willful misfeasance, malfeasance, misconduct, or bad faith. This right of indemnification does not exclude any other rights to which present or former Leaders may be entitled. As a common expense, the EBHOA will maintain adequate general liability and directors and officers liability insurance to fund this obligation, if reasonably available.

7.7 Obligations of Owners. Without limiting the obligations of Lot owners under the Documents, each owner has the following obligations:

7.7.1 Information. Within thirty (30) days after acquiring an interest in a lot, and on request by the EBHOA from time to time, an owner will provide the EBHOA with the following information:

1. A copy of the recorded deed by which the owner has title to the lot;
2. The owner's mailing address, phone number(s), e-mail address, and vehicle(s) license number(s);
3. Any mortgagee's name, address, and loan number;
4. The name and phone number(s) of any resident other than the owner;
5. The name, mailing address, phone number(s), and e-mail address of the owner's managing agent, if any.

7.7.2 Pay Assessments. Each owner will pay assessments property levied by the EBHOA against the owner of his lot, and will pay regular assessments without demand by the EBHOA.

7.7.3 Comply. Each owner will comply with the documents as amended from time to time.

7.7.4 Reimburse. Each owner will pay for damage to the property caused by the negligence or willful misconduct of the owner, or resident of the owner's lot, the owner or resident's family, guests, employees, contractors, agents, or invitees.

7.7.5 Liability. Each owner is liable to the EBHOA for violations of the Documents by the owner, as resident of the owner's lot, or the owner or owner's resident family, guests, employees, agents, or invitees, and for the

costs incurred by the EBHOA to obtain compliance, including attorney's fees, regardless whether suit is filed.

IN WITNESS WHEREOF, the undersigned, duly authorized to act for and on behalf of the Developer, Bella Terra, LLC, has set his hand this 11 day of August 2011.

**DEVELOPER
BELLA TERRA, LLC**

By: [Signature]
John Russell Meeks, Authorized Member

Book 2011 Page 41690
Recorded in the Above
DEED Book & Page
08/12/2011

Benton County, AR
I certify this instrument was filed on
08/12/2011 10:21AM
and recorded in DEED Book
2011 at pages 41675 - 41690
Brenda DeShields-Circuit Clerk

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public within and for the county aforesaid, duly commissioned and acting, appeared in person the within named John Russell Meeks, to me personally known, who stated that he was a member of Bella Terra, LLC and was duly authorized in that capacity to execute the foregoing instrument for the purposes stated therein and acknowledged that he had so signed, executed, and delivered said instrument for the consideration, uses, and purposes therein mentioned and set forth.

WITNESS my hand and seal as a Notary Public this 11 day of August 2011.

My commission expires:
04-25-2017

[Signature]
Notary Public

LACY LYNCH
NOTARY PUBLIC-STATE OF ARKANSAS
WASHINGTON COUNTY
My Commission Expires 04-25-2017
Commission # 12360265