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**Declaration of Covenants, Conditions, and Restrictions of Oklahoma
Properties Homeowners' Association Including Powers and Duties**

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**Declaration of Covenants, Conditions, and Restrictions
of Oklahoma Properties Homeowners' Association Including Powers and Duties**

This Declaration of Covenants, Conditions, and Restrictions (this **Declaration**) is made this 3rd day of January, 2024 by Oklahoma Properties Homeowners' Association, a nonprofit corporation organized and existing under the laws of the State of Arkansas, having its principal office at 3084 E 19th Street, Texarkana, Arkansas 71854, (the **Association**), concerning the residential Subdivision known as Living Waters Subdivision (the **Subdivision**).

Whereas, Oklahoma Properties LLC, a limited liability company organized and existing under the laws of the State of Arkansas. (the **Developer**), is the owner of real property located in McCurtain County, Oklahoma which real property is fully described in the subdivision plat filed attached to this Declaration; and

Whereas, the Developer is in the process of developing and platting the mentioned real property to a residential community and contemplates subdividing the property into fifty individual, quality, single-family residential lots, and, in addition, contemplates setting aside certain tracts of land for community open space; and

Whereas, the Developer desires that the entire Subdivision constitute a single residential community with access, use, and rights and obligations toward the ownership, operation, and maintenance of community facilities, open space, and other amenities, and that such properties are also benefited and burdened by the same land-use restrictions and controls; and

Whereas, the total development of the Subdivision residential community will take several years; and

Whereas, the Association desires to provide for minimum building restrictions to promote and assure that the Subdivision is a quality residential community;

Now, therefore, in consideration of the above, and other valuable consideration, the Association by this Declaration subjects all of the real property described in the subdivision plat filed to the following covenants, charges, assessments, conditions, and restrictions, subject to the limitations contained in this Declaration.

I. Building and Design Committee.

A. There shall be created a building and design committee which shall be responsible for reviewing the plans for all proposed new construction, additions, or modifications. The committee shall be responsible to ascertain that the plans and subsequent construction meet the minimum building requirements set forth in this Declaration. The primary purpose of the committee shall be to assist property owners in achieving compliance with the building restrictions. The committee shall allow the greatest possible latitude and flexibility in the design of

homes to be built on the lots in the Subdivision and shall not discourage new or innovative design concepts or ideas.

B. The building and design committee shall consist of no less than three nor more than five members to be selected annually by the Board of Directors of the Association, with the members to be chosen for varying terms so as to achieve staggered terms and continuity of membership of the committee.

C. Any property owner seeking to construct a new home or other appurtenant structure, or to add to or modify any portion of the exterior of an existing home, shall submit the plans to the building and design committee for review. A modification of the home exterior will include decks, hot tubs, patios, pools, and similar alterations. Construction of new structures includes equipment and material housing, dog runs, gazebos, arbors associated with landscaping, and other similar construction.

D. No construction, change, modification, or alteration for which plans are to be submitted to the building and design committee pursuant to **Paragraph C**, immediately above, shall commence until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing by the building and design committee as to the harmony of external design and location in relation to surrounding structures and topography, size, estimates of cost, and such other factors as the building and design committee considers necessary, appropriate, and relevant to maintain property values of nearby properties. If the building and design committee fails to approve or disapprove the design and location plan within thirty days after the plans and specifications have been submitted to it, approval will not be required and full compliance with this Section of the Declaration will be deemed to have occurred.

E. Without limiting the generality of the factors to be considered by the building and design committee, the following restrictions shall apply:

1. All roofing material shall be limited to either architectural shingles or metal roofing. All roofing material shall be approved by the building and design committee.

2. All driveways and parking bays shall be constructed of concrete, concrete aggregate, or asphalt unless written approval for the use of some other material is given by the building and design committee.

3. Heat pumps, propane tanks, solar devices, chimney flues, hot tub pumps, swimming pools pumps and filtration systems, satellite dishes, and similarly exposed mechanical equipment shall be aesthetically concealed from view on all sides and shall be shielded in such a manner as to minimize noise and safety concerns.

4. Siding shall be of wood, brick, stucco, or combinations of those materials and, in the case of wood, shall be stained or painted in colors approved by the building and design committee in writing. No metal or modular buildings, or mobile homes shall be permitted.

F. In spite of the above provisions, the building and design committee shall have no affirmative obligation to be certain that all elements of the design comply with the restrictions contained in this Declaration, and no member of the building and design committee shall have any liability, responsibility, or obligation, whatever, for any decision or lack of a decision, in the carrying out of duties as a member of the committee. The committee and its members shall have only an advisory function, and the sole responsibility for compliance with all of the terms of this Declaration shall rest with the homeowner. Each homeowner agrees to save, defend, and hold harmless the building and design committee and each of its members on account of any activities of the building and design committee relating to the owner's property or buildings to be constructed on his or her property.

G. The building and design committee, if it observes deviations from or lack of compliance with the provisions and this Declaration, shall report those deviations or lack of compliance to the Board of Directors of the Association for appropriate action.

II. Building Restrictions.

A. The Subdivision shall be a single-family residential subdivision and shall be used solely for residential purposes. A *building site* shall consist of one or more residential lots or portions of lots, as required below, as shown on the face of the plat or any modifications or adjustments to it. In spite of the preceding, no lot shall be smaller than the minimum lot size allowed by the governmental authorities charged with regulating lot sizes.

B. No building or structure shall be erected, constructed, maintained, or permitted on such residential lots, except on a *building site* as defined below in this Declaration.

C. No building, except a single-family residential building together with detached garage and/or such other accessory buildings as may be permitted by local land use or ordinances, shall be permitted. Such accessory buildings shall not be used for or in connection with multi-family living, and each building site shall be used for no more than one family, together with attendants or domestic servants of that family.

D. Any home constructed on a building site shall have a minimum main floor area of the main structure, exclusive of one-story open porches and garages, of

not less than 1,200 square feet for a one-story dwelling. In the case of a multiple-story or split-level dwelling, the lower or ground floor living level shall be not less than 800 square feet and the total finished square footage area of the second and/or split level, when added to the minimum 800 square feet main floor requirement, shall be not less than 1,200 square feet.

E. No home shall be constructed on any building site at a cost of less than \$100,000, based on the Freddie Mac House Price Index (FMHPI) as of June 30, 2021, and shall rise and fall in accordance with that index. If the index should cease to be published, the most nearly comparable index shall be used.

F. No trailer, tent, shack, garage, barn, or other outbuildings shall at any time be used as a residence, temporarily or permanently, on any building site.

G. Any construction commenced on any house as provided in this Declaration shall be substantially completed, including, but not limited to, all painting, within twelve months from the date the construction is commenced.

H. No sign of any kind shall be displayed to public view on any building site, except for a sign, limited to one, advertising the property for sale, which sign shall not be larger than six square feet.

I. All lot owners shall provide and maintain proper facilities to control storm water run-off onto adjacent properties and to insure that sediments do not enter the natural drainage system.

J. All buildings and improvements shall be constructed in compliance with the pertinent zoning and building codes of Pike County, Arkansas, and any and all other governmental entities that have jurisdiction at the time of undertaking the buildings and improvements. No dwelling house, garage, or other accessory building or part of it (exclusive of fences and similar structures) shall be placed nearer to the front lot line or nearer to the side lot line or to the rear lot line than the minimum building setback lines, if any, imposed by any such governmental entity having control, or as shown on the recorded plat of the subdivision, whichever is more restrictive.

K. The height and location of any residence, garage, or accessory building shall be designed and located so as to assist in the preservation of the views of others.

L. All lines or wires for telephone, power, cable television, or otherwise shall be placed underground and no such wires shall be shown on the exterior of any building unless the same shall be underground or in a conduit attached to a building. No television or radio antenna or aerial shall be installed that has a height in excess of thirty feet above ground for the properties described in the subdivision plat filed at Book Q Page 89 in the land records of Pike County, Arkansas, attached to this Declaration. For this purpose, the ground level shall

be determined by using the same ground level as is used for determining the maximum height restriction for houses to be constructed on the property under the then-prevailing zoning and building restrictions. That ground level shall apply whether or not the antenna or aerial is located above the roof line of the residence.

M. No fences shall be constructed except after approval and review by the building and design committee, and all fences shall be designed and constructed so as to be compatible with the neighborhood. Except as provided below, all fences shall be constructed of wooden materials. All fences shall be designed and constructed so as to not constitute a nuisance or offensive effect on other persons residing within the subdivision. Chain-link fences for animal containment purposes, with proper screening from neighbors and public view, may be acceptable on approval of the building and design committee.

N. No noxious, illegal, or offensive use of property shall be carried on any lot, nor shall anything be done on it that may be, or become, an annoyance or nuisance to the neighborhood. No grantee or grantees, under any conveyance, nor purchasers, shall at any time conduct or permit to be conducted on any residential lot any trade or business of any description, either commercial or noncommercial, religious or otherwise, including day schools, nurseries, or church schools, nor shall the premises be used for any other purpose except for the purpose of providing a private, single-family dwelling or residence.

O. No trash, garbage, ashes, or other refuse, junk, vehicles in disrepair, underbrush, or other unsightly growths or objects shall be maintained or allowed on any lot. All fences and buildings shall be kept in a state of repair. All residences, garages, and accessory buildings shall be painted or stained, from time to time, so as to maintain a reasonable state of repair.

P. No boat, boat trailer, house trailer, horse trailer, automobile, recreational vehicle, truck, or other vehicle, or any part of the same shall be stored or permitted to remain on any residential lot unless the same is stored or placed in a garage or fully-enclosed space, except for temporary storage for a period not to exceed thirty consecutive days in duration, with such temporary occurrences not to exist more than two times in any one calendar year.

Q. Each property owner shall exercise as much care as is possible to retain natural vegetation, trees, shrubs, and other similar growth. Prior to the removal of any such growth, the plans referred to above shall be submitted to the building and design committee for the committee's review and comments. Such plans shall include the location of all trees that are six inches or more in diameter, measured four feet above the ground. The design of all structures shall attempt to save such trees, except to the extent that they may become dangerous or hazardous or impede proper drainage of the lot. If any such tree is removed without approval of the building and design committee, the property owner, on

order of the Board of Directors of the Association, will replace the tree with a similar tree specified by the building and design committee, or, if replacement is impossible, pay the Association \$200 for each such tree. If the property owner fails to replace the tree or to pay \$200 per tree to the Association within thirty days of the date of the board's order, the \$200 obligation will become a lien on the land, accruing interest and subject to enforcement under the provisions of this Declaration, including fees and costs. Each property owner, within sixty days of the completion of a residence, shall landscape all yards fronting a street, provided, however, that a right to extend the time period for completion of the landscaping may be sought, in writing, and obtained at the sole discretion of the building and design committee in the case of extenuating circumstances.

R. All mailboxes and mailbox holders shall be of a standard design accepted by the building and design committee and adhering to the applicable specifications of the U.S. Postal Service. All mailboxes shall be located as directed by the U.S. Postal Service. Each lot owner shall be responsible for the maintenance and replacement of his or her mailbox so as to keep it in a state of repair at all times.

S. No animals, livestock, or poultry shall be raised, bred, or kept on any lot of the Subdivision for commercial purposes.

III. Community Open Space and Amenities.

A. There shall be created, as shown on the face of the plat of the Subdivision, such open space tracts as the Developer shall create. Such open-space tracts as well as all open-space easements created or arising out of the Subdivision development shall be for the benefit of all properties in the Subdivision and shall be developed, paid for, and maintained by the Association, as provided in this Declaration.

B. On the filing of the final Subdivision map for the Subdivision, the mentioned open space located in the Subdivision shall be conveyed to and accepted by the Association.

C. Maintenance of the open-space tracts, open-space easements, and/or any amenities located on them shall be at the cost and expense of the lot owners within the subdivision. All of such costs, including, but not limited to, maintenance expenses, insurance, and real property taxes, shall be borne by the individual lot owners who have purchased from the Developer, such lot owners to pay their pro rata share based on the ratio of their lots to the total number of lots that have been created by the filing of the final Subdivision map. It is the express intent and understanding of the parties that, during the development phase of the Subdivision, the lots that have been created in the earlier phases will have the benefit of the open-space tracts, open-space easements, and amenities that

exist on them, and should pay for the same, and that the undeveloped property within the Subdivision should not bear the burden of such expense.

IV. General and Special Assessments.

A. By acceptance of the deed or other instrument of conveyance for his or her lot within the subdivision, each lot owner shall be deemed to agree to pay to the Association annual assessments and special assessments for capital improvements. Such assessments shall be fixed, established, and collected from time to time as provided in this Declaration. The annual and special assessments, together with such interest and costs of collection as provided below, shall be a continuing lien on the property affected and shall also be a personal obligation of the owner of the property on the date when the assessment is due. Such personal obligation shall not pass to successors in title to the affected property unless expressly assumed by the successors.

1. Unless changed by a vote of a majority of the lot owners, the annual assessment for any lot in the Subdivision shall be \$400 and to be approved by a majority of the lot owners annually.

2. On the vote of the members of the Association in the manner set forth below, the Association may levy, in addition to annual assessments, a special assessment or assessments in any calendar year applicable to that year only, for the purpose of defraying in whole or in part the cost of construction or reconstruction or expected repair or replacement of a described capital improvement or capital improvements on the common properties in the subdivision, including fixtures and personal property related to the same.

3. Any special assessment or change in maximum annual assessment must be approved by the Board of Directors of the Association and have the assent of a majority of the votes of the lot owners at a meeting called for that purpose. Written notice of the meeting called for such purpose shall be sent to all members of the Association at least thirty days in advance of the date of the meeting, setting forth the purpose of the meeting.

B. It shall be the duty of the Association to notify all owners or contract purchasers of lots within the subdivision, whose addresses shall be supplied to the Association, by sending written notice to each of the owners within ten days after the date on which the assessment has been fixed and levied, giving the amount of the charge or assessment for the current year, when the same shall be due, and the amount due for each lot or partial lot owned by each such owner. Failure of the Association to levy an assessment or charge for any one year shall not affect the right of the Association to issue assessments in future years. Failure to deliver or levy an assessment due to a lack of an address for the

owner of any particular lot within the Subdivision shall not discharge the obligation of any such owner from paying the assessment, and it shall be the obligation of any such owner to notify the Association of the owner's current address.

C. Any general or special assessment levied as set forth in this Declaration shall become a lien on the affected real estate as soon as the assessment is due and payable as set forth above. If any owner fails to pay the assessment when due, then the assessment shall bear interest at the maximum legal rate permitted by the State of Oklahoma from the date when the assessment is due until it is paid in full.

1. Thirty days after the date of any such assessment has been fixed and levied, the assessment, if not paid, shall become delinquent and the payment of both principal and interest may be enforced as in the case of a laborer's lien on the affected real estate. A notice of the assessment may be filed with the Circuit Clerk of McCurtian County, Oklahoma. It shall be the duty of the Board of Directors of the Association, as provided below, to bring actions to enforce such liens before they expire. The Association, in its discretion, may file certificates of nonpayment of assessments with McCurtian County, Oklahoma, whenever the assessments are delinquent. For each certificate so filed, or for any lien so filed, the Association shall be entitled to collect from the owner or owners of the property described in the certificate or lien a fee of \$50, which fee is declared to be a lien on the affected real estate, and shall be collectible in the same manner as the original assessment provided for in this Declaration.

2. Any such lien shall continue for a period of three years from the date of delinquency and no longer, unless within that time period legal proceedings shall be instituted to collect the assessments, in which event the lien shall continue until the termination of the legal proceedings and the sale of the property under the execution of the judgment establishing the same.

3. If legal proceedings are commenced to collect any such assessment, or if the services of an attorney are retained by the Association in connection with same, the nonpaying owner or owners shall be obligated to pay all costs incurred, plus reasonable attorneys' fees, which costs and fees shall become a portion of the assessment and may be foreclosed on in the same manner as the assessment as provided above.

Cl. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, enjoyment, and welfare of the residents in the Subdivision and, in particular, for the improvement and maintenance of property, service, and facilities devoted to the above-stated

purpose and related to the use and enjoyment of the common properties and of the homes situated in the subdivision. Without limiting the generality of the above statement of purpose, the assessments shall be applied by the Association to the payment of the costs to:

1. Enforce any and all building and land-use restrictions that exist as of the date of this Declaration or which may be lawfully imposed on or against any of the property in the Subdivision.
2. Maintain the community open-space tracts and amenities and improvements on them as provided in this Declaration, and maintain the roads and bridges providing access to the Subdivision.
3. Pay expenses to carry out the above, such as attorneys' fees, manager's fees, expenses of liability, fire, and other insurance, bookkeeping and accounting expenses, and any and all other expenses that may from time to time be deemed necessary to carry out the intent of this Declaration by the Association.
4. Protect property values in the Subdivision by promoting pride in and enthusiasm for it; work for improved transportation and recreation facilities within the community in which the Subdivision is located; and do all lawful things and tasks that the Association, in its discretion, may deem to be in the best interests of the Subdivision and the owners of the lots in the subdivision.

V. Miscellaneous and General Provisions.

- A.** Each owner, by purchasing any lot in the Subdivision shall automatically become a member of the Association and shall be bound by the terms and conditions of this Declaration, the articles and bylaws of the Association, and such rules and regulations as may be promulgated and adopted by the Association under the Articles and Bylaws.
- B.** On transfer, conveyance, or sale by any owner of all of his or her or its interest in any Subdivision lot, the owner's membership in the Association shall cease and terminate.
- C.** Except as provided in this Declaration, the Association shall be the sole judge of the qualifications of its membership and of the right to participate in and vote at its meetings.
- D.** The official address of the Association is 3084 E 19th St. Texarkana, Arkansas 71854, and shall remain so until changed by the Association, at which time the Association shall notify each member of the change in address.

E Each lot owner or lot purchaser, on the purchase of the lot, shall immediately notify the Association of the owner's name and address.

F By written consent of 51 % of all of the lot owners, the Association may be given such additional powers as may be described by the Association, or otherwise modify or amend this Declaration in any manner.

G Prior to the actual organization or incorporation of the Association contemplated by the terms of this Declaration, the Developer shall have the right, at its option, to perform the duties and assume the obligations, levy and collect the assessments and charges, and otherwise exercise the powers conferred by this instrument on the Association in the same way and in the same manner as though all such powers and duties were given in this instrument to the Developer directly. The Developer shall also have the right to modify, amend, repeal, or change any of the terms of this Declaration prior to the actual organization or incorporation of the Association.

H The Association shall, at all times, observe all of the laws, regulations, ordinances, and the like of McCurtain County, Oklahoma, and of the United States of America, and if, at any time, any of the provisions of this Declaration shall be found to be in conflict with them, then such parts of this Declaration as are in conflict with those laws, regulations, ordinances, and the like shall become null and void, but no other part of this Declaration not in conflict shall be affected.

I Subject to the limitations set forth in this Declaration, Association shall have the right to make such reasonable rules and regulations and to provide such means and to employ such agents as will enable it adequately and properly to carry out the provisions of this Declaration.

J This Declaration may be terminated, and all of the real property now or later affected may be released from all or any part of the terms and conditions of this Declaration, by the owners of 67% of the properties subject to this Declaration at any time it is proposed to terminate this Declaration, by executing and acknowledging an appropriate written agreement or agreements for that purpose, and filing the same with the office of the Circuit Clerk of McCurtain County, Oklahoma.

K All of the provisions of this Declaration shall be deemed to be covenants running with the land, and shall be binding on and inure to the benefit of the owners of the properties described in the subdivision plat filed. Their heirs, successors, and assigns. All parties claiming by, through, or under them shall be taken to hold, agree, and covenant with such owners, their successors in title, and with each other, to conform to and observe all of the terms and conditions contained in this Declaration.

L. Any lot owner, or the Association, may maintain any legal proceedings to compel or enforce any of the terms and conditions of this Declaration.

M. The initial members of the Board of Directors of the Association shall be Richard Davis, Robert William Krack, Billy Clements, Greg Francis, and Scott Mason.

WITNESS our signatures as of the day and date first above stated.

Oklahoma Properties Owners' Association

By: _____
Authorized Representative

ACKNOWLEDGMENT

State of _____)
)ss.
County of _____)

On this ____ Day of _____, 20____, Before me, _____, a Notary Public, (or before any office within this state or without the State now qualified under existing law to take acknowledgments), appeared the within named _____, to me personally well known (or satisfactorily proven to be such person), who stated and acknowledged that he had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 20_____.

My Commission Expires :

NOTARY PUBLIC