

MASTER DEED TO RIVER OAKS TRACE  
HORIZONTAL PROPERTY REGIME

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, RIVER OAKS LAND DEVELOPMENT CORPORATION, an Arkansas corporation, hereinafter called "Declarant", is the owner of the following described real property lying in the County of White, State of Arkansas, to-wit:

Part of Spanish Survey #2312 in Searcy, White County, Arkansas, more particularly described as: Commencing at a point where the centerline of Marion Drive intersects the centerline of Moore Avenue; thence North 89 degrees 20 minutes 00 seconds East 302.73 feet to the point of beginning; thence North 0 degrees 40 minutes 00 seconds West, 217.8 feet; thence South 89 degrees 20 minutes 00 seconds West, 150.0 feet; thence North 0 degrees 40 minutes 00 seconds West, 45.0 feet; thence South 89 degrees 20 minutes 00 seconds West, 104.85 feet to the point of curvature of a 1257.4 feet radius curve to the right, said curve having a chord bearing and distance of North 10 degrees 56 minutes 55 seconds East, 180.87 feet; thence North 89 degrees 20 minutes 00 seconds East, 211.45 feet; thence South 0 degrees 40 minutes 00 seconds East, 177.16 feet; thence North 89 degrees 20 minutes 00 seconds East, 57.0 feet; thence South 0 degrees 40 minutes 00 seconds East, 262.8 feet to the centerline of said Moore Avenue; thence along said centerline South 89 degrees 20 minutes 00 seconds West, 50.0 feet to the point of beginning, containing 60,966.171 square feet and/or 1.399 Acres, more or less.

WHEREAS, Declarant desires that the hereinbefore described property, together with the buildings and improvements constructed thereon as described herein and as shown in detail on

FILED FOR RECORD

This file 24 day of July  
19 14 at 4:30 P M  
JAMES C. LANFORD  
Circuit Clerk and Recorder  
By Alice Barker, D. C.

the plans attached to and recorded with this instrument, be established as a Horizontal Property Regime in accordance with the provisions of Act No. 60 of the First Extraordinary Session of the 1961 General Assembly of the State of Arkansas ("the Arkansas Horizontal Property Act");

NOW THEREFORE, RIVER OAKS LAND DEVELOPMENT CORPORATION, for and in consideration of the benefits accrued and to accrue, which benefits are hereby acknowledged to be of value, declares the hereinbefore described property, together with all buildings and improvements constructed thereon, as shown by the attached maps, plans and drawings, to be a Horizontal Property Regime, to be forever known as "RIVER OAKS TRACE HORIZONTAL PROPERTY REGIME", and any and every deed of conveyance or other instrument affecting title to any apartment or unit in RIVER OAKS TRACE HORIZONTAL PROPERTY REGIME, describing the same by the apartment number or numbers shown on the attached plans and adding the words "of RIVER OAKS TRACE HORIZONTAL PROPERTY REGIME" shall be deemed to contain a good and sufficient description for all purposes and shall pass title to that apartment and to that apartment's pro rata share of the limited and general common elements of the Horizontal Property Regime as herein described and defined and as shown on the plans attached hereto.

RIVER OAKS LAND DEVELOPMENT CORPORATION, as owner and developer of RIVER OAKS TRACE HORIZONTAL PROPERTY REGIME does further declare, publish and covenant, that the following terms, covenants, conditions, easements, restrictions, uses, limitations and obligations shall be deemed to run with the property and land and be binding upon the Declarant and all owners and future owners of any interest in the real property and improvements, their grantees, successors, heirs, executors and assigns in the said Horizontal Property Regime.

I.

DEFINITIONS AND TERMS

1. Except as otherwise defined or unless the context otherwise requires, the terms used herein and in the By-laws

shall have the meaning set forth and stated in the Horizontal Property Act (Act No. 60 of the First Extraordinary Session of the 1961 Arkansas General Assembly the same being Arkansas Statutes Annotated Section 50-1002(a)-(k)). The following words and phrases used herein and in the by-laws shall have the following meanings:

1.1. Apartment. The term "apartment" or "unit" (which such terms may be used interchangeably) as used herein, shall mean the elements of an undivided condominium apartment, including garage space (if applicable) which are not owned in common with the owners of the other condominium owners in the Regime, and as described upon the plat of the RIVER OAKS TRACE PHASE I HORIZONTAL PROPERTY REGIME and identified by number.

1.2. Apartment Owner. The term "apartment owner" as used herein, shall mean that person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns an apartment or unit within the Horizontal Property Regime.

1.3. Association. The term "association" as used herein shall mean the RIVER OAKS TRACE ASSOCIATION OF CONDOMINIUMS OWNERS, INC., and its successors and assigns, the By-laws of which shall govern the administration of this Horizontal Property Regime and the membership of which shall be composed of all owners of the condominium units according to such By-laws.

1.4. General Common Elements. The term "general common elements" as used herein shall mean and include the land upon which the building is situated, the foundation, main or load bearing walls or columns, roofs, halls, stairways and entrances thereof, the landscaping, yards or gardens, the tangible personal property required for the maintenance and operation of the

Horizontal Property Regime, even though owned by the Association, and all compartments or installations for central services or facilities, such as power, light, gas, cold and hot water, refrigeration, central air conditioning and central heating reservoirs, water tanks and pumps, swimming pools, tennis courts, or other recreation facility, if any, and all other elements of the building rationally of common use or necessary to its existence, upkeep and safety.

1.5. Limited Common Elements. The term "limited common elements" as used herein, shall mean and include those elements which are reserved for the exclusive use of a certain apartment or apartments to the exclusion of other apartments, and which may include:

(a) Pipes, ducts, electrical wiring and conduits located entirely within an apartment or adjoining apartment and serving only such apartment or apartments, and such portions of the perimeter walls, floors and ceilings, doors, vestibules, windows, entryways and all associated fixtures and structures, therein, as lie outside the apartment boundaries;

(b) Carport or garage designated as an appurtenance to an apartment;

(c) Balcony or patio serving exclusively a single apartment or one or more adjoining apartments; and

(d) Separate storage area, if any, designated as an appurtenance to any apartment.

1.6. Common Expenses. The term "common expenses" as used herein, shall mean and include:

(a) Expenses of administration, maintenance, operation, repair or replacement of the general common elements, and of the portions of the apartment to be maintained by the Association; and

(b) Expenses declared common expenses by the provisions of this Declaration and Master Deed or the By-laws of the Association; and

(c) Any valid charge against the Horizontal Property Regime as a whole, or as may be assessed by the Board of Directors of the Association.

1.7. Condominium. The term "condominium" as used herein shall mean all of the condominium property as a whole when the context so permits or any one apartment within the Horizontal Property Regime when the context so permits.

1.8. The Developer. The term "the developer" as used herein shall mean RIVER OAKS LAND DEVELOPMENT CORPORATION, an Arkansas corporation, its successors and assigns.

1.9. Survey and Plans. The term "survey and plans" or "map" as used herein shall mean the survey of the lands hereinbefore described consisting of 1 page, reflecting the location of all improvements as constructed upon the said lands, reflecting the dimensions, area and location of each apartment therein; the dimensions, area and location of the general common elements affording access to each apartment; all as certified to by an engineer authorized and licensed to practice in the State of Arkansas, which said survey and plans is filed for record in Plat Cabinet A at Page 61 of the White County Records. It is expressly agreed and each and every Purchaser of an apartment, his heirs, executors, administrators, assigns and grantees hereby agree that the square footage, size and dimensions of each apartment as set out or shown in this Master Deed or in the survey and plans attached hereto are approximate and are shown for descriptive purposes only. The Declarant does not warrant, guarantee or represent that any apartment actually contains the area, square footage or dimensions shown by the Plat thereof. Each Purchaser and Owner of any apartment or interest therein agrees that the apartment has been or will be purchased

as actually and physically existing at the time such purchase is closed. Each Purchaser of an apartment expressly waives any claim or demand which he may have against the Declarant or any person whomsoever on account of any differences, shortage or discrepancy between the apartment as actually and physically existing and as it is shown on the respective Plat thereof exhibited hereto. It is specifically agreed that in interpreting deeds, mortgages, deeds of trust and other instruments for any purposes whatsoever or in connection with any matter, the existing physical boundaries of the apartment shall be conclusively presumed to be the Boundaries regardless of settling, rising or lateral movements of the Building, or buildings, and regardless of variances between boundaries as shown on the Plat and those of the Buildings.

1.10 Premises and Property. The terms "premises and property", which terms may be used interchangeably, as used herein, shall mean and include the land, the buildings and all improvements and structures thereon and all rights, easements and appurtenances thereunto belonging.

## II.

### EASEMENTS

The following easements are hereby reserved to the Association, the apartment owners and the Developer, as the case may be, and shall run with the land of the condominium:

2.1 Utility Easements. Utility easements are reserved through the Condominium property as may be required for utility services, in order to adequately serve the condominium; provided, however, that any such easements through an apartment shall be only as specified in the plans and specifications for the apartment building as set forth in Exhibit A hereto, unless approved in writing by the apartment owner.

2.2. Ingress and Egress. An easement for purposes of ingress and egress is reserved for pedestrian traffic over,

through and across, sidewalks, paths, walks and lanes as the same from time to time may exist, upon the general common elements; and for vehicular traffic over, through and across such portions of the general common elements as may from time to time be paved and intended for such purposes;

2.3. Easements in Parking Areas. Easements are reserved to the owners of units in the condominium for pedestrian and vehicular traffic over, through and across such driveways and parking areas as may from time to time be paved and intended for such purposes; and for the construction and maintenance of water, sewer and other utilities; provided, however, that each apartment owner shall, as hereinafter described and as set forth upon the plans attached as Exhibit A, have reserved to him designated parking areas which shall be reserved to the exclusive use of the individual apartment owner, his guests and invitees, subject to the easement for repair and maintenance of utilities as hereinbefore described.

2.4. Easement of Unintentional and Non-Negligent Encroachments. If an apartment shall encroach upon any general common element or limited common element, or upon any other apartment, by reason of original construction or by the non-purposeful or non-negligent act of the apartment owner, or the Association, then an easement appurtenant to such encroaching apartment, to the extent of such an encroachment, shall exist so long as such encroachment shall exist.

### III.

#### IMPROVEMENTS

3.1. Existing Improvements. This condominium consists of five residential apartment units with adjoining parking garages and adjacent lands as more particularly described in this Master Deed, all equipped with all appurtenant electrical, plumbing, air conditioning and heating facilities as provided for in the plans attached hereto as Exhibit A.

3.2. Reservation of Variance. Notwithstanding any provisions of this Declaration to the contrary, the Developer reserves unto itself the exclusive right to amend the Survey and Plans and to vary the size, shape, physical lay-out or location of any unsold apartments and to correspondingly adjust the value and the percentage or fraction of ownership of the Common Elements of the respective apartments remaining unsold. Such adjustment in the percentage or fraction of ownership of the Common Elements will only affect those apartments owned by the Declarant, and will not change or affect the percentage or fraction of ownership of any other unit. This reservation shall be effective for any annexed and merged Horizontal Property Regimes but shall not work to readjust or reallocate any vested interests in the Common Elements appurtenant to any of said apartments.

3.3. Identification. Each of the apartments identified upon the survey and plans attached hereto as Exhibit A shall have the number and address specified as follows:

<u>Apartment Number</u>	<u>Address</u>
1	No. 1 River Oaks Trace
2	No. 2 River Oaks Trace
3	No. 3 River Oaks Trace
4	No. 4 River Oaks Trace
5	No. 5 River Oaks Trace

IV.

APARTMENT BOUNDARIES.

4.1. General Boundaries. Each apartment shall include that part of the building containing the apartment that lies within the boundaries of the apartment, which boundaries are described as follows:

(a) Upper and Lowery Boundaries. The upper and lower boundaries of the apartment shall be the following boundaries extended to an intersection with the perimetrical boundaries:

(i) Upper Boundaries: The horizontal plane of the undecorated, finished ceiling;

(ii) Lower Boundaries: The horizontal plane of the undecorated, sub-floor.

(b) Perimetrical Boundaries. The perimetrical boundaries of the apartment shall be the vertical planes of the undecorated, finished interior of the walls, window frames, doors and door frames and trim bounding the apartment extended to intersections with each other and with the upper and lower boundaries as hereinbefore described. Such boundaries shall include the patios, decks and the free standing automobile garages serving such apartments.

4.2. Adjustments to Boundaries. In interpreting deeds, mortgages, deeds of trust and other instruments, the existing physical boundaries of the unit reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries, regardless of settling, rising or lateral movement of the building and regardless of variances between boundaries shown on the Plat and those of the Building.

V.

VALUE.

For purposes of this Master Deed and for purposes of the By-laws and the provisions of the Horizontal Property Act, the basic value of the Horizontal Property Regime is declared to be \$299,500.00, and the basic value of each apartment, the square foot area thereof, and the percentage appertaining to each apartment owner in the payment of the Common Expenses as described in Paragraph 1.6 hereof, the rights in the general common elements and the proportionate voting rights of each apartment, is as follows:

<u>Apartment Number</u>	<u>Square Foot Area</u>	<u>Basic Value</u>	<u>Percentage</u>
1	<u>2388</u>	<u>\$ 59,108.00</u>	<u>.1973554 %</u>
2	<u>2268</u>	<u>\$ 56,137.00</u>	<u>.187438 %</u>
3	<u>2352</u>	<u>\$ 58,217.00</u>	<u>.1943802 %</u>
4	<u>2748</u>	<u>\$ 68,019.00</u>	<u>.2271074 %</u>
5	<u>2344</u>	<u>\$ 58,019.00</u>	<u>.193719 %</u>

## VI.

APPURTENANCES TO APARTMENTS

Each condominium parcel is a separate parcel of real property, the ownership of which may be in fee simple, or any other estate in real property recognized by Arkansas law. The individual ownership of each apartment space herein defined shall further include the interior construction, partitions, appliances, fixtures and improvements which are intended to exclusively serve such apartment space, such as interior room walls, floor coverings or finish, closets, cabinets, shelving, individual lighting and electrical fixtures, and other separate items or chattels belonging exclusively to such Unit, any of which may be removed, replaced, disposed of or otherwise treated without affecting any other Unit space or ownership, use or enjoyment thereof. Each parcel shall comprise a condominium unit together with the following appurtenances:

6.1. General Common Elements. An undivided share in the land and other general common elements as determined by the percentage described in Section V hereof. The right to share in the general common elements does not include the right to withdraw or to require payment or distribution thereof, except upon the termination of the Horizontal Property Regime as hereinafter set forth.

6.2. Limited Common Elements. An undivided share in the land and other limited common elements, if any, appurtenant to specific apartment units as set forth in Exhibit A appended hereto, which may be reserved for the exclusive use of specific

apartment owners. The right to share in the limited common elements does not include the right to withdraw or to require payment or distribution thereof except upon the termination and dissolution of this Horizontal Property Regime as hereinafter set forth.

6.3. Airspace. An exclusive easement for the use of the airspace occupied by the unit as it exists at any particular time and as the unit may be lawfully altered or reconstructed from time to time, which easement shall be terminated automatically in any airspace which may be vacated;

6.4. Parking Spaces. Parking spaces are located upon the condominium property and are identified as relating to specific apartments within the condominium. The parking spaces so identified with respect to specific apartments are reserved for the use of the owner of said apartment, his tenants, guests invitees or family. Such parking spaces shall constitute limited common elements as defined herein.

6.5. Association. Membership in the Association and an undivided share in the common surplus of the Association, if any;

6.6. Facilities. The right to use, occupy and enjoy community facilities subject to the provisions of this Master Deed, By-laws and Rules and Regulations;

6.7. Easements. The easements described in Section II hereof to the extent applicable.

## VII.

### LIABILITY FOR COMMON EXPENSES AND LIMITED COMMON EXPENSES

Each apartment owner shall be liable for a proportionate share of the common expenses or limited common expenses, such share being the same as the undivided share in the common elements as set forth in Paragraph 5 hereof.

## VIII.

MAINTENANCE, ALTERATION AND IMPROVEMENTS8.1. Apartments.

(a) By the Association. Except to the extent caused by the negligent or intentional act of the Apartment Owner or his guests or invitees as set forth in Paragraph 17.2 hereof, the Association shall maintain, repair and replace at the Association's expense:

(i) All portions of an apartment, except interior surfaces, contributing to the support of the apartment building, which portions shall include, but shall not be limited to the outside walls of the apartment building, and all fixtures on the exterior thereof, boundary walls of apartments, floor and ceiling joints and slabs, load bearing columns and walls.

(ii) Patios, courtyards, fences, decks, garages, walkways, and the painting thereof;

(iii) All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services which are contained in the portions of an apartment maintained by the Association, exclusive, however, of any interior wiring, plumbing, duct work or other facilities located within the walls, attic or under the floor of any apartment;

(iv) The painting and finishing of all exterior surfaces of all apartments;

(v) The roofs of all apartments, together with any incidental damage to the interior of any apartment caused by the failure of the Association to reasonably repair any defect in the roof after proper notice from the apartment owner; and

(vi) All incidental damage caused to an apartment by such maintenance, repair or alteration conducted by the Association.

(b) By the Apartment Owner. The apartment owner shall maintain, repair and replace at the expense of the apartment owner:

(i) All portions of the apartment except those portions to be maintained, repaired and replaced by the

Association without disturbing the rights of other apartment owners, including, without limitation, all interior surfaces, doors, windows, appliances and interior fixtures and facilities appertaining to the owner's apartment;

(ii) The air conditioning and heating equipment serving the apartment, including any portion thereof which may be located upon the roof or exterior of the apartment, and further including all ductwork, electrical connections or plumbing work associated therewith, and all appliances and fixtures located within the apartment.

(iii) Broken or cracked glass in windows and doors.

(iv) Under and at the direction of the Association, any damage to any portion of the apartment occasioned by the negligent or intentional act of any apartment owner or members of his family, guests or invitees, as set forth in Paragraph 17.2 hereof.

(c) Alterations and Improvements to Apartments.

Except as may be reserved to the developer, neither an apartment owner, nor the Association shall make any alterations in the interior or exterior of an apartment, inclusive of the patio area, if any, or remove any portion thereof, or make any additions thereto, or do anything which would jeopardize the safety or soundness of the apartment building, or impair any easement, without first obtaining approval in writing of the owners of all apartments in which such work is to be done and the approval of the Board of Directors of the Association. A copy of all plans for all work contemplated to be performed, prepared in a fashion acceptable to the Board of Directors, shall be filed with the Association at the time any such required prior approval shall be sought. No apartment owner shall have the right to paint or otherwise decorate or change the appearance of any portion of the exterior of the condominium. All painting and decoration upon the exterior of the condominium shall be the sole responsibility of the Association and the color scheme and decoration thereof shall be at the discretion of the Association.

No owner shall in any way modify, add to or otherwise perform any work whatever upon any of the common elements, general or limited, without the prior written approval of the Board of Directors of the Association.

8.2. General Common and Limited Common Elements.

(a) By the Association. The maintenance and operation of the general and limited common elements shall be the responsibility and expense of the Association.

(b) Alteration and Improvement of the General and Limited Common Elements. Subject to the Developer's right of variance as set forth in Paragraph 3.2 hereof, the Developer's right of annexation as set forth in Section XV hereof, and the Developer's right of control as set forth in Paragraph 10.1 hereof, after the completion of the improvements included in the general and limited common elements which are contemplated by this Master Deed, there shall be no alteration or further improvement of the general common elements or of the limited common elements without the prior approval in writing of the record owners of the apartments; provided, however, that any alteration or improvement of the general common elements or of the limited common elements bearing the approval in writing of the record owners, of not less than 60% of the general or limited common elements and which does not interfere with the rights of any owners without their consent, may be conducted if the owners who shall not approve of such alteration or improvement are relieved from the initial cost thereof. The share of such initial cost not so assessed to the disapproving owners shall be assessed to the other apartment owners in the same ratio as their shares in the general common elements bear to each other. There shall be no adjustment in the shares and rights of an apartment owner in the general common elements or the applicable limited common elements which are altered or further improved, whether or not an apartment owner contributes to the cost thereof.

## IX.

ASSESSMENTS

The making and collection of assessments against apartment owners for common expenses and limited common expenses shall be in accordance with the By-laws of the Association and additionally subject to the following provisions:

9.1. Share of Common Expense. Each apartment owner shall be liable for the proportionate share of the common expenses for the maintenance and operation of the condominium, all as hereinbefore and hereinafter specifically defined. Each such share of the said common expense shall be equal to the undivided share of the apartment owner in the general common elements and/or the limited common elements appurtenant to the apartment's owned by him as set forth in Paragraph 5 hereof. All common expenses so incurred shall be collected by way of an assessment by the Association which said assessment shall be calculated and established in accordance with the By-laws of the Association and shall be reasonably calculated to provide funds sufficient to provide for the reasonable maintenance, repair, improvement or operation of the condominium and the services and facilities devoted to the condominium. Uses for the proceeds of the assessments may include, but are not limited to, the cost to the Association of the following: all insurance, repair, replacement and maintenance of the Common Elements; extended coverage, vandalism, malicious mischief and liability insurance for the Condominium Units; management costs, taxes, legal and accounting fees as may from time to time be authorized by the Association; construction of other facilities, maintenance of easements upon, constituting a part of, appurtenant to or for the benefit of the Property; mowing grass, caring for the grounds and landscaping; caring for the swimming pool and equipment, if any; roofs and exterior surfaces of all Buildings; pest control; street maintenance; outdoor lighting; security service for the

Property; water and sewer service furnished to the Common Elements by or through the Association; discharge of any liens on the Common Elements; and other charges required by this Master deed, or other charges that the Association is authorized to incur. In addition, the Association may establish a reserve for repair, maintenance and other charges as specified herein. All assessments shall be payable on a monthly basis and shall be due on the first day of each month. Contribution for monthly assessments shall be prorated if the ownership of the apartment unit commences on a day other than the first day of the month. No apartment owner may exempt himself from contributing towards any common expense or payment of any assessment by non-use or waiver of the use or enjoyment of any common elements in the condominium or by abandonment of the apartment belonging to him. The initial monthly assessment for each apartment, subject to change by the Association as set forth in the By-laws, shall be as follows:

<u>Apartment Number</u>	<u>Initial Monthly Assessment</u>
1	\$ <u>69.00</u>
2	\$ <u>66.00</u>
3	\$ <u>68.00</u>
4	\$ <u>79.00</u>
5	\$ <u>68.00</u>

9.2 Interest and/or Penalty on Unpaid Assessments.

Assessments and installments thereof paid on or before ten days from the due date thereof shall not bear interest or be subject to late penalty, but all sums not paid on or before ten days after the date when due shall be subject to a late charge penalty of \$10.00. Any payments of assessments not paid on or before 30 days from the due date thereof shall further bear interest from the date due until paid at the rate of 10% per annum. All payments upon account shall be first applied to interest and then to the assessment payment first due. The Board of Directors of the Association shall have the authority, without formal amendment to this Master Deed, to increase the last charge and/or interest charged hereunder.

9.3 Lien for Assessments. Unpaid assessments, inclusive of accrued interest, if any, against any apartment owner shall constitute a lien as against the apartment, which said lien shall additionally secure reasonable attorneys fees not to exceed 10% incurred by the Association incident to the collection and enforcement of such lien. Such lien shall attach from the date of failure of payment of the assessment. To evidence such lien, the Association may, but shall not be required to, prepare a written notice signed by a member of the Board of Directors, setting forth the amount of such unpaid indebtedness, the name of the owner of the condominium apartment and a description thereof, which such notice may be filed with the Circuit Clerk and Ex-Officio Recorder of White County, Arkansas. Upon the sale or conveyance of any apartment, all unpaid assessments against any apartment owner for his pro-rata share of the common expenses shall first be paid from the sales price or by the purchaser in preference over any other assessments or charges of whatever nature except assessments, liens and charges for real and personal property taxes assessed in conjunction with the apartment, and payments due under mortgage instruments duly recorded.

9.4. Enforcement. The lien for assessments may be enforced by foreclosure of the defaulting Owner's Condominium Unit by the Association, in any manner permitted by the laws of the State of Arkansas. Each Owner, by accepting a deed to his apartment expressly grants to the Association a power of sale in connection with the assessment lien and waives homestead and appraisement. In any such foreclosure, the Owners shall be required to pay the costs and expenses of such proceedings, the costs and expenses for filing the notice or claim of lien and all reasonable attorney's fees, not to exceed 10%, or as permitted by law. The Association shall have the power to bid in the Condominium Unit at foreclosure sale and to acquire and hold, lease, mortgage and convey same. In the event that the Association shall foreclose the lien of any assessment, the owner of the apartment subject to such lien shall be required to pay a

reasonable rental for the apartment during the pendency of the foreclosure and the Association shall be entitled to the appointment of a receiver for collection thereof.

X.

CONDOMINIUM OWNERS ASSOCIATION

The operation of the condominium shall be conducted by the RIVER OAKS TRACE ASSOCIATION OF CONDOMINIUM OWNERS, INC., an Arkansas non-profit corporation, to be organized under the laws of the State of Arkansas. The Articles of Incorporation of the Association appear of record in the official records of the clerk of the Circuit Court of White County, Arkansas, under Case No. 84-262, and the same are hereby referred to for a full recital of the terms and provisions thereof and by this reference are made a part hereof. The by-laws of the Association shall be the by-laws of the Condominium (as provided in Arkansas Statutes Annotated Section 50-1015), a copy of which by-laws is appended hereto as Exhibit A and by this reference is made a part hereof. The functions and obligations of the Association shall be subject to the hereinafter set forth conditions, limitations and provisions in addition to the conditions, limitations and rights set forth in the By-laws.

10.1. Declarant Control. Notwithstanding any of the provisions herein or in the By-laws, and for the benefit and protection of the apartment owners and any first mortgagees of record for the sole purpose of insuring a complete and orderly buildout as well as a timely sellout of the Condominium Project, including the annexations as provided in Section XV, the Declarant will retain control of and over the Association and the management of its affairs, which such control shall extend to, but shall not be limited to, election of directors and adoption of amendments to the By-laws, for a maximum period not to exceed the earlier of ten years from the date of recordation hereof, upon the sale of seventy-five percent (75%) of the units, including those in all subsequent annexations to this Horizontal Property Regime from those lands described in Exhibit B hereto,

or when in the sole opinion of the Declarant, the project becomes viable, self-supporting and operational. It is expressly understood, that the Declarant will not use said control for any advantage over the apartment owners by way of retention of any residual rights or interest in the Association or through the creation of any management agreement with a term longer than three (3) years without majority Association approval. Should Declarant elect not to annex adjoining tracts, then its control shall extend no longer than ten (10) years from the recordation of this Master Deed.

10.2. Limitation of Liability of the Association. Notwithstanding the duty of the Association to maintain, repair and operate parts of the condominium property, the Association shall not be liable to any apartment owner or owners for injury or damage, other than for the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association or caused by the elements, acts of God, other powers or persons.

10.3. Membership. Subject to the provisions of Paragraph 10.1 hereof, each apartment owner shall be a member of the Association and shall have voting rights equal to his percentage ownership in the general common elements and limited common elements as set forth in Paragraph 5 hereof. Whenever the decision of an apartment owner is required upon any matter, whether or not the same shall be subject to an Association meeting, such decision shall be expressed by the same person who would cast the vote of such owner if in an Association meeting, unless the joinder of all record owners is specifically required by this Master Deed. In no event shall voting be split among more than one apartment owner. Should additional property be annexed in accordance with Section XV hereof, the total number of votes shall be increased accordingly, and the weighted acreage of all apartment owners adjusted to total 100%.

10.4. Specific Power to Restrict Use and Enjoyment. Every owner and the Declarant shall have a beneficial interest of

use and enjoyment in the Common Elements subject to the following limitations, restrictions and provisions, hereby reserved to, but creating no obligation upon the Association or the Declarant:

- (a) The right of the Association to publish rules and regulations governing use of the Common Areas and the improvements and facilities located thereon, and to establish and enforce penalties for infractions thereof;
- (b) The right of the Association to charge reasonable fees for the use of facilities within the Common Area, if such facilities are not used by all Members equally;
- (c) The right of the Association to borrow money and mortgage the Common Area and improvements for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property; providing, however, that the rights of any such Mortgagee in such property shall be subordinate to the rights of the Owners hereunder, and in no event shall any such Mortgagee have the right to terminate the Horizontal Property Regime established by this Master Deed;
- (d) The right and duty of the Association to suspend the voting rights and the right to the use of the recreational facilities, if any, by an Owner for a period during which any assessment against the Owner's Condominium Unit remains unpaid;
- (e) The right of Declarant or the Association after the Declarant Control Period, to dedicate or transfer all or any part of the Common Area for utility easements to any public agency, authority or utility for the purposes, and subject to the conditions, of such agency, authority or utility. No such dedication or transfer shall be effective unless approved by all First Mortgagees and two-thirds (2/3) vote of the quorum of Owners present at a meeting of the Association specifically called for the purpose of approving any such dedication or transfer, and unless an instrument signed by the Board of Directors reflecting such vote of the Owners agreeing to such

dedication or transfer and First Mortgagee approval has been duly recorded with the Circuit clerk and Ex-Officio Recorder of White County, Arkansas;

(f) The right of the Association to adopt, implement and maintain a private security system for the Premises consistent with applicable laws;

(g) The right of the Association to establish rules and regulations governing traffic within the Common Area, and to establish sanctions for any violation or violations of such rules and regulations;

(h) The right of the Association to regulate noise within the Premises, including, without limitation, the right of the association to require mufflers on engines and to prohibit the use of devices producing excessive noise; and

(i) The right of the Association to control the visual attractiveness of the property, including, without limitation, the right to require Owners to eliminate objects which are visible from the Common Area and which, in the Association's judgment, detract from the visual attractiveness of the Property.

## XI

### RESTRAINT UPON SEPARATION OR PARTITION

The undivided share in the general common elements and/or the limited common elements which are appurtenant to an apartment unit shall not be separated therefrom and shall pass with the title to the unit, whether or not separately described. A share in the general common elements or limited common elements appurtenant to units cannot be conveyed or encumbered except together with the unit. The shares in the general common elements or limited common elements appurtenant to units shall remain undivided and no action for partition of the general or limited common elements shall lie.

INSURANCE

The insurance, other than title insurance, that shall be maintained upon the condominium property and the property of the apartment owners shall be governed by the Horizontal Property Act, specifically, Arkansas Statutes Annotated Section 50-1020 and 50-1021, and the by-laws of the Association. Such insurance, if any, shall be maintained by the Association, and the cost thereof shall be an element of common expense to be borne by each apartment owner on the basis of his pro-rata percentage interest in the general common elements and limited common elements as set forth in Paragraph 5 hereof, and all sums required for payment of any premium in connection therewith shall be a part of the monthly assessment payable to the Association as hereinbefore set forth. The purchase of any casualty insurance by the Association in accordance herewith shall not prejudice the right of any apartment owner to insure his apartment on his own account and for his own benefit.

## XIII.

DAMAGE OR DESTRUCTION

This Master Deed hereby makes mandatory the irrevocable appointment of an Attorney in Fact to deal with the Property upon its destruction, obsolescence or condemnation. Title to any Condominium Unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any Grantee of a deed from the Declarant or from any Owner shall constitute appointment of the Attorney in Fact herein provided. All of the Owners irrevocably constitute and appoint the RIVER OAKS TRACE CONDOMINIUM OWNERS ASSOCIATION, INC., or its successor, a non-profit corporation, if same be hereafter organized, their true and lawful Attorney in their name, place and stead, for the purpose of dealing with the property upon its destruction, obsolescence or condemnation, as hereinafter provided. As

Attorney in Fact, the Association, by its authorized officers shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or any other instrument with respect to the interest of an apartment owner which is necessary and appropriate to exercise the powers herein granted. In the event the property comprising this Horizontal Property Regime be damaged or destroyed, in whole or in part, the repair, reconstruction, replacement or disposition of the said property shall, subject to the provisions of this paragraph, be governed by the Horizontal Property Act, specifically Arkansas Statutes Annotated Section 50-1021 and 50-1022, as may be amended from time to time, and the by-laws of the Association.

XIV.

RESTRICTIONS AND PROHIBITIONS UPON USE

The use of the condominium property and any apartment therein shall be in accordance with the following provisions, restrictions, and prohibitions, which shall constitute covenants running with the land of the condominium and shall be effective so long as the condominium shall exist and the apartments which comprise the condominiums are in useful condition upon the land.

14.1. Apartments. Each of the apartments that comprise the condominium shall be occupied only by its owners, and their guests, as a residence and for no other purpose. No apartment may be divided or sub-divided into a smaller unit, nor any portion sold or otherwise transferred without first amending this Master Deed to show the changes in the apartments to be affected and no such amendment shall be effective unless approved by 100% of the record owners of the apartments which comprise the condominium.

14.2. General Common Elements and Limited Common Elements. The general and limited common elements shall be used only by the apartment owners, their agents, servants, invitees,

permitted tenants, family members and guests only for the purposes for which they are intended in the furnishing of services or facilities for the enjoyment of their apartments.

14.3. Nuisances. No nuisance shall be allowed to exist or continue to exist upon the condominium property nor any use or practice that is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the property by its residents. All parts of the condominium shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate nor any fire hazard be allowed to exist. No apartment owner shall permit any use of his apartment or make any use of the common elements that will increase the cost of insurance upon the condominium property.

14.4. Lawful Use. No immoral, improper, offensive or unlawful use of the condominium property shall be permitted.

14.5. Leasing. After approval of the Association as set forth in the by-laws thereof, entire apartments may be rented, provided the occupancy thereof is only by the Lessee(s) and their family and guests. No rooms or any subdivision of any apartment shall be rented apart from the entire apartment.

14.6. Regulations Upon Use. Reasonable regulations concerning the use of the condominium property may be made and amended from time to time by the Association in the manner provided in its Articles of Incorporation and By-laws. Copies of such regulations and amendments shall be furnished by the Association to all apartment owners and residents of the condominium.

14.7. Satellite T. V. Antennas. No apartment owner shall be permitted to install any satellite T. V. antenna upon any portion of the apartment or upon any portion of the general or limited common elements, without prior written approval of the Board of Directors of the Association.

14.8. Vehicular Parking. All vehicles, shall be parked only in designated parking spaces, as described upon the plans and survey attached hereto as Exhibit A. No apartment owner shall be permitted to maintain otherwise than in the garage provided for said apartment any motorcycle, mobile home, trailer, recreational vehicle, or boat.

14.9. Animals and Pets. No animals, livestock, reptiles, or poultry of any kind shall be raised, bred or kept in any Apartment or the Common Elements. Dogs, cats, fish, birds and other household pets may be kept in Apartments subject to rules and regulations adopted by the Association, provided they are not kept, bred or maintained for commercial purposes or in unreasonable quantities. As used in this Declaration, "unreasonable quantities" shall ordinarily mean more than two (2) pets per household; provided, however, the Association may determine a reasonable number in any instance to be more or less, and the Association may limit the size and weight of any household pets allowed. The Association, acting through the Board, shall have the right to prohibit maintenance of any animal which constitutes, in the opinion of the Board, a nuisance to any other Apartment owner. Animals belonging to Apartment owners, occupants or their licensees, tenants or invitees within the Property must be kept either within an enclosure, an enclosed patio or on a leash being held by a person capable of controlling the animal. The enclosure must be so maintained that the animal cannot escape therefrom and shall be subject to the approval of the Board. Should any animal belonging to an Apartment owner be found unattended out of the enclosure and not being held on a leash by a person capable of controlling the animal, such animal may be removed by Declarant (for so long as it has control over the Association) or a person designated by Declarant to do so, and subsequent thereto by the Association or its Managing Agent, to a pound under the jurisdiction of the local municipality in

which the Property is situated and subject to the laws and rules governing said pound, or to a comparable animal shelter. Furthermore, any Apartment owner shall be absolutely liable to each and all remaining Apartment owners, their families, guests, tenants and invitees, for any unreasonable noise or damage to person or property caused by any animals brought or kept upon the Property by an Apartment owner or members of his family, his tenants or his guests; and it shall be the absolute duty and responsibility of each such Apartment Owner to clean up after such animals which have used any portion of the Common Elements.

14.10. Enforcement. The restrictions, conditions, prohibitions and regulations as herein set forth may be enforced by the Association or any apartment owner in any court of competent jurisdiction at law or in equity.

XV.

RESERVATION OF RIGHT OF MERGER AND ANNEXATION

15.1. Effect of Merger and Annexation. For a period of ten (10) years from the date of recordation of this Master Deed, the Declarant reserves the right, authority and power to annex tracts out of the adjoining land described in the attached Exhibit "B" for the purpose of establishing, annexing and merging additional phases to this Horizontal Property Regime. It is contemplated that Declarant will annex approximately 75 additional apartments to the Project, but nothing contained herein shall restrict Declarant to this number of apartments or obligate Declarant to annex this number of apartments. The respective phases may be created simultaneously or staggered and shall conform in basic respect to the general restrictions, limitations and benefits contained in this Master Deed. The intended improvements in the future annexation tracts must be substantially completed prior to annexation. Upon the recordation of Amendments to this Master Deed, this Master Deed

shall further apply to and affect all of the Property described in this Master Deed and the Property described in such Amendments, and shall also bind all Owners of any part of the subsequent phases with the same effect as if the phases were originally subject to and described in this Master Deed. Thereafter, the powers and responsibilities of the Board and Association shall be co-extensive with regard to all Property included within the expanded Regime and the Board and Association shall, pursuant to the provisions of this Master Deed, constitute the Board and Association for the entire Condominium, as expanded. The rights, obligations and duties of each Owner shall be the same and identical to the rights, obligations and duties of the Owners prior to recordation of such Amendments, except as each Owner's percentage or fraction of ownership interest may be modified as herein provided.

15.2. Effect on Common Expenses. The Association shall continue to maintain one (1) Common Expense Fund for the collection and disbursement of monies as required and permitted hereby for the maintenance, repair, replacement and operation of the expanded Regime and in all respects and meanings, the Regime, as expanded, shall be deemed to be a single Project for the purposes of and in accordance with the provisions of this Master Deed and the Act.

15.3. Procedure for Merger and Annexation; Effect on Ownership Percentages. Any annexation of additional phases shall entail Buildings, amenities and Units of comparable design, size and quality and shall be accomplished by the filing of appropriate Amendments. Said documents shall be recorded with the Circuit Clerk and Ex-Officio Recorder of White County, Arkansas, which will, inter alia:

- (1) Be executed by only the Declarant or its successors or assigns;

- (2) Contain a legal description of the land to be annexed to the Regime.
- (3) Contain a sufficient description of the Units built on the annexed land;
- (4) Contain a reallocation of percentage or fraction of ownership interest in the Common Areas (as expanded by annexation) among all Units in the Regime. Such reallocations will be calculated by determining the square footage under roof, inclusive of enclosed patio areas and decks, whether or not under roof, of the individual Units in proportion to the new total square footage under roof, inclusive of patio areas, whether or not under roof, of all the Units; and
- (5) Any other information required by law or necessary to effectuate the intent of this Article.

15.4. Limitation. This Master Deed, including, but not limited to this Paragraph does not presently create any interest in or with respect to the Property shown as Exhibit "C" which may be annexed, and this Master Deed shall not affect in any manner all or any part of such Property unless and until an Amendment or Amendments are filed thereto in accordance with this Paragraph.

## XVI.

### TERMINATION OF HORIZONTAL PROPERTY REGIME

The horizontal property regime herein created may be terminated, in addition to the manner provided by the Horizontal Property Act, in the following manner:

16.1. Destruction. If it is determined that the condominium shall not be reconstructed because of fire or other casualty, this Horizontal Property Regime shall be terminated, and the interest of each apartment owner shall be determined as hereinafter set forth in Paragraph 16.4.

16.2. Termination By Agreement. This Horizontal Property Regime may be terminated at any time by agreement in

writing by all record owners of the apartments and all record owners of mortgages upon said apartments.

16.3. Certificate of Termination. The termination of this Horizontal Property Regime in either of the foregoing manners shall be evidenced by a certificate of the Association executed by its President and Secretary, certifying as to the facts effecting the termination, which said certificate shall become effective upon being recorded in the public records of White County, Arkansas.

16.4. Shares of Ownership After Termination. After termination of this Horizontal Property Regime, the apartment owners shall own the condominium parcel and all assets of the Association as tenants in common in undivided shares which said undivided shares shall be the same as the individual apartment owners' undivided shares in the general common elements and limited common elements appurtenant to the apartment owners' apartments prior to the termination, all as set forth in Paragraph 5 hereof.

## XVII.

### MISCELLANEOUS PROVISIONS

17.1. Compliance and Default. Each apartment owner shall be governed by and shall comply with terms of this Master Deed, the Articles of Incorporation of the Association, and the By-laws and Regulations adopted by the Association and all of the same as they may be amended from time to time. The failure of any apartment owner to comply with the provisions of the foregoing documents and regulations shall entitle the Association or any other apartment owner or owners to the relief provided therein and/or any relief or remedy provided in the Horizontal Property Act, or otherwise at law or in equity.

17.2. Negligence of Apartment Owner. An apartment owner shall be liable for the expense of any maintenance, repair

or replacement rendered necessary by his negligence or by that of any member of his family or his or their guests, employees, agents, lessees, or invitees, but only to the extent that such expense is not met by the proceeds of any insurance maintained by the Association. An apartment owner shall pay the Association the amount of any increase in the insurance premiums incurred by the Association which shall be occasioned by the use, misuse, occupancy or abandonment of an apartment or its appurtenances or of the common elements by the apartment owners.

17.3. Costs and Attorneys Fees. In any proceeding arising because of an alleged failure of an apartment owner or the Association to comply with the terms of this Master Deed, the Articles of Incorporation of the Association, the By-laws or Regulations adopted by the Association, and the documents and regulations as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys fees as may be awarded by the Court.

17.4. Non-Waiver. The failure of the Association or any apartment owner to enforce any covenant, restriction, regulation or other provision of the Horizontal Property Act, this Master Deed, the Articles of Incorporation of the Association, the By-laws or the Regulations adopted by the Association shall not constitute a waiver of the right of the Association or any apartment owner to do so thereafter.

17.5. Amendments. This Master Deed may be amended by the apartment owners at a meeting of the Association called for that purpose after written notice setting forth the proposed amendment. Any such amendment may be proposed by the Board of Directors of the Association or by the members of the Association. No such proposed amendment shall be effective unless approved by 80% of the entire membership of the Association. Notwithstanding anything to the contrary herein

contained, no amendment shall discriminate against any apartment owner or group of apartment owners unless the apartment owners so affected shall unanimously consent and no amendment shall change any apartment or the share of such apartment in the general common elements appurtenant thereto or increase the owners share of the common expenses unless the record owner of the apartment concerned and all record owners of mortgages upon such apartments shall join in the execution of the amendment. Any amendment to this Master Deed shall be attached to a certificate certifying that the amendment was duly adopted in accordance with the foregoing procedure, which Certificate shall be executed by the officers of the Association and shall be effective upon recordation thereof in the public records of White County, Arkansas.

17.6. Correction of Error. Notwithstanding the provisions of Paragraph 17.5 hereof, the Declarant shall be permitted to alter or amend this Master Deed to correct any typographical or similar error so as to make any erroneous word or provision consistent with other terms or provisions of this Master Deed.

17.7. Severability. The invalidity in whole or in part of any covenant or restriction or any section, subsection, sentence, clause, phrase, or word or other provision of this Master Deed, the Articles of Incorporation of the Association, By-laws and Regulations adopted by the Association shall not affect the validity of the remaining portions.

17.8. Governing Law. This Master Deed has been executed in and shall be construed under the laws of the State of Arkansas.

XVIII.

JOINDER BY LIENHOLDER

First Security Bank of Searcy, Arkansas, is the holder of a mortgage lien upon the hereinbefore described real property

and for the sole purpose of consenting to the provisions hereof, but without obligation does hereby join in the execution hereof, hereby subjecting its mortgage lien to the provisions hereof.

IN WITNESS WHEREOF, THIS INSTRUMENT HAS BEEN EXECUTED THIS 24th DAY OF July, 1984.

RIVER OAKS LAND DEVELOPMENT CORPORATION

BY E. D. Yancey  
E. D. Yancey, President

ATTEST:  
Tommy Quattlebaum  
Tommy Quattlebaum, Secretary

FIRST SECURITY BANK OF SEARCY, ARKANSAS

BY James Rutledge, Pres.

CORPORATE ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WHITE

On this day, before me personally appeared E. D. Yancey and Tommy Quattlebaum, to me personally well known, who acknowledged that they were the President and Secretary, respectively, of River Oaks Land Development Corporation, a corporation, and that they, as such officers, being authorized so to do, had executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by themselves as such officers.

WITNESS my hand and official seal this 24th day of July, 1984.

My Commission Expires: 2-1-92  
(SEAL)  
NIKE MILLAR  
NOTARY PUBLIC  
WHITE COUNTY, ARK.

James J. J. J.  
Notary Public

Part of Spanish Survey #2312 in Searcy, White County, Arkansas, more particularly described as: Commencing at a point where the centerline of Marion Drive intersects the centerline of Moore Avenue; thence North 89 degrees 20 minutes 00 seconds East 40.0 feet to the Point of Beginning; thence North 05 degrees 04 minutes 57 seconds East 981.1 feet; thence South 01 degrees 48 minutes 04 seconds West 440.35 feet; thence South 89 degrees 20 minutes 00 seconds West 1006.43 feet to the Point of Beginning, containing 10.17 acres, more or less.

LESS AND EXCEPT: Part of Spanish Survey #2312 in Searcy, White County, Arkansas, more particularly described as: Commencing at a point where the centerline of Marion Drive intersects the centerline of Moore Avenue; thence North 89 degrees 20 minutes 00 seconds East 302.73 feet to the point of beginning; thence North 0 degrees 40 minutes 00 seconds West, 217.8 feet; thence South 89 degrees 20 minutes 00 seconds West, 150.0 feet; thence North 0 degrees 40 minutes 00 seconds West, 45.0 feet; thence South 89 degrees 20 minutes 00 seconds West, 104.85 feet to the point of curvature of a 1257.4 feet radius curve to the right, said curve having a chord bearing and distance of North 10 degrees 56 minutes 55 seconds East, 180.87 feet; thence North 89 degrees 20 minutes 00 seconds East, 211.45 feet; thence South 0 degrees 40 minutes 00 seconds East, 177.16 feet; thence North 89 degrees 20 minutes 00 seconds East, 57.0 feet; thence South 0 degrees 40 minutes 00 seconds East, 262.8 feet to the centerline of said Moore Avenue; thence along said centerline South 89 degrees 20 minutes 00 seconds West, 50.0 feet to the point of beginning, containing 60,966.171 square feet and/or 1.399 Acres, more or less.

# CERTIFICATE OF RECORD

STATE OF ARKANSAS, }  
County of White } ss.

I, James C. Lankford, Clerk of the Circuit Court and Ex-Officio Recorder, within and for the County in the state aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office on the 27 day of July, 1984, at 11:30 o'clock P. M., and the same is now duly recorded with the certificate and acknowledgments thereon in Record Book Vol. 446 at Page 125.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the White County Circuit Court on this 27 day of July, A. D., 1984.  
By James C. Lankford D. C. JAMES C. LANKFORD  
Circuit Clerk and Recorder