



**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR  
THE BLUFFS AT STONE CANYON**

THIS DECLARATION, made this 10 day of February, 2010, by C.A.B.O. DEVELOPMENT COMPANY, L.L.C., an Oklahoma limited liability company hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner or developer of certain property in Rogers County, Oklahoma, known as "Stone Canyon" or "Stone Canyon Community" as those terms are defined in the Master Declaration; and

WHEREAS, the Declarant is the owner of certain lands within the Stone Canyon Community is and developing a private, gated residential community within that certain property in Rogers County, Oklahoma, which is more particularly described as follows, to-wit:

ALL OF THE BLUFFS AT STONE CANYON, A SUBDIVISION IN ROGERS COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF.

hereinafter referred to as "The Bluffs"; and

WHEREAS, Declarant is presently improving and developing residential lots, together with "Reserve Area(s)", as hereinafter defined, within The Bluffs; and

WHEREAS, Declarant will construct on Patriot Drive and/or on certain areas in the Reserve Area(s) a private street or streets and private access gate(s) and associated appurtenances, and may construct or provide (in Developer's sole discretion) on Patriot Drive and/or on the "Reserve Area(s)" a private park area, gatehouse, exterior fence or wall, drainage facilities and landscaped areas for the use and enjoyment of: (1) the owners of the lots and dwelling units within The Bluffs; and (2) other entities/owners of parcels of land who may access their parcels by means of such private streets or gates; and

WHEREAS, Declarant will convey the lots within The Bluffs subject to certain covenants, conditions, restrictions, reservations, easements, liens, and charges as hereinafter set forth;

NOW, THEREFORE, Declarant hereby declares that all of the property described above shall be held, mortgaged, sold and conveyed subject to the following covenants, conditions, restrictions, reservations, easements, liens, and charges, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of The Bluffs. These covenants, conditions, restrictions, reservations, easements, liens, and charges shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described property or any

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part thereof, and shall inure to the benefit of each owner thereof or any part thereof, their heirs, successors and assigns.

## **ARTICLE I** **DEFINITIONS**

1. "Master Association" means Stone Canyon Community Association, Inc., an Oklahoma not-for-profit corporation, its successors or assigns, as that meaning is assigned to such term in that certain Master Declaration of Covenants, Conditions and Restrictions for Designated Communities within Stone Canyon recorded September 17, 2007, in Book 1900 at Page 237 in the Office of the Rogers County Clerk ("Master Declaration").
2. "The Bluffs" shall mean and refer to that certain real property hereinbefore described.
3. "Bluffs Association" shall mean and refer to an association established by the Declarant and having jurisdiction over The Bluffs at Stone Canyon and any future lands submitted to its jurisdiction, and subject at all times, to the authority and jurisdiction of the Master Association and the terms and conditions of the Master Declaration.
4. "Common Area(s)" and/or "Reserve Area(s)" shall mean that area, including private street(s) and easements, designated as such on the Plat of The Bluffs at Stone Canyon. The Reserve Areas are specifically reserved unto the Declarant for possible later conveyance, in the Declarant's sole discretion, to the Bluffs Association or other third-party or entity for any purpose determined by the Declarant in its sole discretion.
5. "Patriot Drive" shall mean that certain private roadway known as Patriot Drive which was created by a separate legal instrument and was filed of record in the Office of the Rogers County Clerk in Book 2038 at Page 0316-0336 prior to the filing of this Plat. This private roadway includes a private access gate and associated appurtenances and extends from and is connected to that certain publicly dedicated county road known as North 177<sup>th</sup> East Avenue and provides legal access to the entry of The Bluffs and provides legal access to the entry of The Bluffs.
6. "Lot" shall mean and refer to a platted lot, block or parcel of land shown upon the recorded plat of The Bluffs with the exception of the Reserve Area(s) and any Common Area.
7. "Member" as used in this Declaration shall mean and refer to every person or entity which owns a Lot in the Bluffs and, accordingly, shall hold membership in the Master Association as determined by the Master Declaration, and the Bluffs Association as provided in this Declaration. Neither Patriot Golf Club nor the Folds of Honor Foundation shall be deemed a member unless so approved by the Declarant, in writing.
8. "Owner" as used within this Declaration shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot situated within The Bluffs,

including contract sellers, but excluding others having such interest merely as security for the performance of an obligation.

9. "Declarant" shall mean and refer to C.A.B.O. Development Company, L.L.C., an Oklahoma limited liability company, its successors and assigns.
10. "Secretary" shall mean and refer to the Secretary of the Master Association or the Bluffs Association.
11. "Board of Directors" shall mean and refer to the Board of Directors of the Master Association or the Bluffs Association.
12. "Articles" shall mean and refer to the Articles of Incorporation (including any amendments or changes thereto) pursuant to which either the Master Association or the Bluffs Association, as hereinabove defined, is or has been formed.
13. "Bylaws" shall mean and refer to the existing Bylaws of either the Master Association or the Bluffs Association, including any amendments or changes thereto.

**ARTICLE II**  
**POWERS OF MASTER ASSOCIATION AND THE**  
**BLUFFS ASSOCIATION AND MEMBERSHIP**

1. **POWERS OF THE MASTER ASSOCIATION AND THE BLUFFS ASSOCIATION:**  
The Master Association and the Bluffs Association shall each have such rights, interests, powers and duties as contained in their respective Articles of Incorporation and their Declarations. The Master Association and the Bluffs Association, in addition to all other rights, powers and duties provided herein and as contained in its articles of incorporation, shall have all powers, rights and privileges which a not-for-profit corporation organized under the Laws of the State of Oklahoma by law may now or hereafter have to carry out its corporate purposes.
2. **MEMBERSHIP:** Any Owner of a Lot in The Bluffs, a Subdivision in Rogers County, State of Oklahoma, shall automatically become a Member of the Master Association as more particularly provided in the Master Declaration, as well as a Member of the Bluffs Association. The membership of the Master Association and the Bluffs Association shall be limited to the record Owner, whether one or more persons or entities, of a fee simple title to a Lot situated within The Bluffs and any later or future phases of the Bluffs (herein, the "Bluffs Community"). The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation, other than contract sellers. As to the Owner of any Lot within The Bluffs Community, membership in the Master Association and the Bluffs Association shall be appurtenant to and may not be separated from ownership of any Lot situated within The Bluffs Community. Ownership of a Lot shall be the sole qualification for membership in both the Master Association and the Bluffs Association with respect to those property owners in The Bluffs Community.

### **ARTICLE III** **VOTING RIGHTS**

The Master Association has two classes of voting membership. Voting rights in the Master Association are determined pursuant to Article VI of the Master Declaration which are incorporated herein by reference. The Bluffs Association shall have two classes of voting membership in the Bluffs Association as follows:

Class A: Class A Members shall be all those persons or entities entitled to membership as defined in Article II with the exception of Declarant. With respect to Bluffs Association matters, Class A Members who own a Lot within the Bluffs Community shall be entitled to one (1) vote for each such Lot in which they hold the interest required for membership by Article II; provided, however, when two or more persons or entities hold such interest or interests in any such Lot, although all of such persons or entities shall be Members of the Bluffs Association, the vote for such Lot shall be exercised as they, among themselves, may determine, but in no event shall more than one (1) vote per Lot be cast with respect to any one Lot within Bluffs Community.

Class B: The Class B Member shall be Declarant. With respect to Bluffs Association matters, the Class B Member shall be entitled to five hundred (500) votes; provided, that the Class B membership shall cease and be converted to Class A membership on the earlier to occur of:

- (a) December 31, 2057; or
- (b) such date as Declarant executes and records with the County Clerk of Rogers County, Oklahoma, a notice that Declarant has elected to convert the Class B membership to Class A membership.

Notwithstanding any provision herein to the contrary, the Declarant's five hundred (500) votes above shall apply only to Bluffs Association matters involving The Bluffs Community; with respect to any matters involving Stone Canyon, the Declarant shall be entitled to those number of votes as provided for in the Master Declaration. In the event there is a conflict as to Declarant's voting rights between this Declaration and the Master Declaration, the provisions of the Master Declaration shall control.

### **ARTICLE IV** **PROPERTY RIGHTS**

1. **MEMBERS' EASEMENTS OF ENJOYMENT:** Every Member shall have the nonexclusive right and pedestrian access easement to use and enjoy the Reserve Area(s) and all improvements constructed thereon as more particularly provided in the Master Declaration. Such right and easement shall be appurtenant to and shall pass with the title to

every Lot within The Bluffs, subject, however, to the Master Declaration and this Declaration.

2. **DELEGATION OF USE OF RESERVE AREA(S)**: Any Member may delegate, in accordance with the Master Declaration, his or her right to use, but not ownership of his or her easement right to, the Reserve Area(s) and facilities and improvements situated thereon, to his or her resident family members and temporary, invited guests.
3. **TITLE TO THE RESERVE AREA(S) AND COMMON AREAS**: The Declarant herein reserves the right and easement, but shall not be obligated, to enter upon the Reserve Area(s) and Common Area(s) and construct, repair and maintain improvements therein. Maintenance of the Reserve Area(s) and Common Area(s) shall be borne by the Bluffs Association; provided, however, in the event the Bluffs Association fails or refuses to maintain the Reserve Area(s) and/or Common Area(s), the Declarant shall have the right, but not the obligation, to maintain the Reserve Area(s) and/or Common Area(s) in a reasonable manner and the Bluffs Association shall reimburse the Declarant for such expenses upon demand. Any cost incurred by the Declarant for the maintenance of the Common Area(s) which is not paid by the Bluffs Association within thirty (30) days upon written demand shall constitute a lien on all of the Lots in The Bluffs subject to the collection and enforcement thereof as more particularly provided in the Master Declaration.
4. **DAMAGE TO RESERVE AREA(S) AND COMMON AREA(S)**: If, due to the act or omission of any Owner, his family, contract purchasers, guests, licensees or other invitees, the Reserve Area(s) or Common Area(s) are damaged (normal wear and tear excepted) and maintenance, repair or replacement shall be required thereby, then such Owner shall pay for the full cost of such maintenance, repair and replacement as shall be determined by the Bluffs Association.

## **ARTICLE V**

### **COVENANT FOR MAINTENANCE ASSESSMENTS**

1. **CREATION OF LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS**: Annual assessments shall be charged by the Master Association in accordance with the provisions of the Master Declaration. Additional annual assessments shall be charged by the Bluffs Association in accordance first, with the Master Declaration, and second, with this Declaration. Except for Declarant, each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the (a) annual assessments; and (b) special assessments for capital improvements of both the Master Association and Bluffs Association as may be fixed, established and collected from time to time as provided in the Master Declaration and this Declaration, respectively. Assessments for any Lot owned by the Declarant shall be governed by the Master Declaration including (without limitation) Section 8.7(b) thereof. Each such assessment, together with such interest, costs and reasonable attorneys' fees incurred in collection thereof, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment became due.

2. **PURPOSE OF ASSESSMENTS:** The assessments levied by the Master Association shall be used for the purpose of promoting the recreation, health, and welfare of the residents in all of Stone Canyon including, without limitation, promoting the habitability of residential structures and enhancing property values within Stone Canyon, as well as to the improvement and maintenance of the reserve area(s) and improvements, ad valorem taxes, drainage ways and easements, driveways, parking areas, fences and walls, and landscaped areas outside of the Bluffs Community but within Stone Canyon. The assessment levied by the Bluffs Association shall be used for the maintenance, operation, repair and replacement of Common and Reserve Areas and improvements therein or thereon, maintenance of Patriot Drive and its associated gates, landscaping and other appurtenances as well as other expenses incurred by the Bluffs Association for the general benefit of all Owners of Lots within the Bluffs Community for any reason whatsoever in connection with any item or items designated, or to be provided or performed by the Bluffs Association including (without limitation) reasonable reserves, ad valorem taxes, drainage ways and easements, driveways, maintenance and/or repair of all private access gate(s) and associated appurtenances, private street(s) and easements, security or other monitoring systems, private boundary fence/wall and associated taxes, insurance and similar costs and assessments within and/or surrounding the Bluffs Community including (without limitation), leaf, debris and snow removal on, or over, under and/or around such private amenity, parking areas, fences and walls, and landscaped areas all within the Bluffs Community. A private, controlled access gate will be constructed on Patriot Drive prior to the point that Patriot Drive intersects the roadway leading into The Bluffs. Certain of the dues collected by The Bluffs Association will be used for the care, landscaping and general maintenance of Patriot Drive and the associated controlled access structures, all as more specifically set forth in the governing association documents of The Bluffs Association.

3. **SPECIAL ASSESSMENT:** In addition to Annual Assessments, there is hereby imposed against each Lot in The Bluffs (a) any special assessment imposed by the Master Association in accordance with the Master Declaration; and (b) any special assessment for purposes of construction, maintenance, replacement and/or repair of all private access gate(s) and associated appurtenances, private street(s) and easements, security or other monitoring systems, private boundary fence/wall, and associated taxes, insurance and similar costs and assessments within and/or surrounding The Bluffs including (without limitation), leaf, debris and snow removal on, over, under and/or around such private amenity. The amount of such latter special assessment shall be determined by the Board of Directors of the Bluffs Association in accordance with the provisions of first, the Master Declaration, and second, this Declaration. This special assessment is in addition to any annual assessment imposed against a Lot in The Bluffs Community.

4. **EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE MASTER ASSOCIATION AND THE BLUFFS ASSOCIATION:** Any assessment by the Master Association or the Bluffs Association which are not paid on or before the due date, as prescribed by the Master Declaration or this Declaration, shall be delinquent and shall constitute a lien on the Lot against which said assessment is made. This lien shall also secure all costs and expenses of enforcement thereof and may be foreclosed by the respective Master Association or Bluffs Association or by the Declarant.

**ARTICLE VI**  
**ARCHITECTURE, SIZE, MATERIALS,**  
**PLANS AND SPECIFICATIONS**

The property hereby platted as "The Bluffs" is subject to the Master Declaration of Covenants, Conditions and Restrictions for Designated Communities within Stone Canyon recorded September 17, 2007, in Book 1900 at Page 237 in the Office of the Rogers County Clerk. To the extent these Declarations conflict with the Master Declaration, the provisions of the Master Declaration shall control.

1. **PLANS AND SPECIFICATIONS:** A complete set of plans and construction specifications including materials for any structure proposed to be erected must meet the Architectural Guidelines and be submitted for review and approved as more particularly provided in the Master Declaration including (without limitation) Article IV thereof. The following standards shall apply to all dwellings in The Bluffs:

(a). Dwelling Size. All dwellings shall have a minimum heated living space of at least 3,000 square feet. Any accessory dwelling unit (also known as "mother-in-law" unit) shall not exceed 1,200 square feet or 30% of the total square footage of the principal residence, whichever is greater. Square footage shall be computed for heated living space, exclusive of porches, patios, and garages. No dwelling or accessory dwelling unit may be rented or leased to non-family members who are not related to the occupants of the primary dwelling unit. It is expressly intended that these accessory dwelling units shall be limited to family members who for physical, emotional or financial reasons need to be near other family members in order that families can assist with the care of each other.

(b). Masonry. All dwellings shall have at least seventy-five percent (75%) of the exterior walls thereof comprised of brick, stone or similar approved masonry siding; provided, however, that the area of all windows, covered porches and doors located in the exterior walls shall be excluded in the determination of the area of said exterior walls. In all cases, the masonry shall extend to the ground line, whereby the foundation shall be concealed. In particular cases, the Declarant reserves the right to permit Dryvit brand or similar exterior construction material in lieu of brick, stone or similar approved masonry siding.

(c). Garages. All dwellings shall have attached garages with side entries only and suitable for accommodating a minimum of two (2) standard size automobiles; provided, however, a dwelling may have a minimum two (2) car detached garage with front entry only which meets the same plans and specifications of its dwelling so long as such detached garage is approved in writing by the Architectural Committee. All garages shall be accessed by an overhead garage door. Carports shall not be permitted.

- (d). Patio Roof. All patio roofs shall be an integral part of the residence such that they are contained within the roofline and shall be constructed with the same design, shingle color and materials as the residence, to be approved by the Architectural Committee prior to construction.
- (e). Driveways. All driveways into a Lot from any street shall be constructed of concrete and shall not be less than sixteen (16.0) feet in width.
- (f). Mailboxes. All mailboxes shall be of a uniform structure and color and shall be constructed in accordance with a written plan/diagram and specifications to be approved by the Architectural Committee prior to construction.
- (g). Roof Pitch; Materials. The roof of the dwelling shall have a pitch and shall consist of such materials as permitted by the Architectural Guidelines and as may be approved by the Architectural Committee.
- (h). Sodding; Landscaping. The front, back and side yards of each lot shall be fully sodded (including, without limitation, any borrow ditch running along the front or side of each lot, whether or not said ditch is on the lot or in the Reserve Area fronting the lot. upon the completion of the construction of any residence. Each lot shall have an irrigation system and a reasonable landscape package in the front yard upon completion of the construction of any residence as established by a final inspection certificate or within thirty (30) days after occupancy thereof, whichever is later.
- (i). Heating and Air Conditioning Requirements. All residences in The Bluffs shall be constructed with central heat and air systems with recommended BTU for such dwelling size. No portable, window or wall-type heating or air conditioning units or water cooler shall be permitted.
- (j). Individual Sanitary Sewer Disposal System. Sewage shall be disposed of by individual on-site Department of Environmental Quality approved aerobic sewage disposal systems. No other on-site individual sewage disposal system shall be allowed without written approval from the Declarant. All sewage disposal systems shall be installed and maintained in accordance with the rules and regulations set forth by the Oklahoma Department of Environmental Quality. The Declarant reserves the right to designate an approved third-party contractor with experience in installing and/or maintaining aerobic sewage disposal systems for the purpose of performing regular maintenance and monitoring of functions of all such aerobic systems within The Bluffs. The fees for such services may be satisfied through regular and/or special assessments imposed on each Lot in the Bluffs as provided in the Master Declaration. The Declarant further reserves the right to specify the general location of the individual aerobic system upon each Lot pursuant to the site plan requirements contained within the Architectural Guidelines of Stone Canyon. The precise plan and specifications of such aerobic system, including (without

limitation) any new applications related thereto, may be specially designated by the Declarant in order to ensure the optimum performance and monitoring of such aerobic system. In the event Declarant or the Master Association determines that an Owner of a Lot is not taking the necessary action to assist in the proper maintenance or functioning of such Owner's aerobic system, then the Declarant or the Master Association, or their respective designee, may, but shall not be obligated to, perform such maintenance or function and the cost of such service shall be reimbursed by the Lot Owner whose aerobic system was serviced. In the event such Lot Owner does not pay for such service within thirty (30) days after request for payment, such costs shall become a lien against such Lot subject to the terms and conditions of the Master Declaration.

2. **NO WARRANTY AS TO PLANS:** Notwithstanding anything herein to the contrary, the Declarant shall not be liable for any approval, disapproval or failure to approve any plans or specifications hereunder, and the approval of building plans either by Declarant or its designee as provided in Article IV of the Master Declaration shall not constitute a warranty of or responsibility for building methods, materials, procedures, structural design, grading, drainage, restrictive covenant compliance or code compliance. The approval, disapproval or failure to approve of any building plans shall not be deemed a waiver of any restrictions, unless the Declarant is herein authorized to grant the waiver and the Declarant did, in fact, grant the waiver in writing. It is the responsibility of each Lot Owner, and not the Declarant, to insure that such Owner's grantor and/or builder has caused the subject Lot, and all improvements thereto, to be in full compliance with all relevant codes, covenants and restrictions imposed upon The Bluffs including (without limitation) the Architectural Guidelines, the Master Declaration and this Declaration.
  
3. **FINISHED FLOOR ELEVATIONS/LOT GRADING:** The finished floor elevations as shown on the final plat are recommended elevations and should not be considered as the final, designed proper finished floor elevation of any proposed dwelling. The respective owner of each dwelling and the Owner's builder and/or engineer shall be responsible for determining the proper finished floor elevation of the respective dwelling. The finished floor elevation shall be determined by establishing and accounting for proper drainage in all directions relative to, but not limited to: roadways, areas of higher elevations, the natural topographic slope of the lot, the aesthetics of the proposed elevation of the dwelling, borrow ditches, culvert pipes, elevation of adjacent lots, etc. It is each Owner/Builder's sole responsibility, after consultation with their own hired professional, to prepare the finished grade of each individual home site so as to insure that storm water is properly managed around the perimeter of the subject home. Unlike densely platted subdivisions within a city limit, The Bluffs, like all rural subdivisions, was designed with large lots where storm water would be managed, not with subsurface storm sewer pipes, but with an overland drainage system using contours, borrow ditches and swales. After large rain events, storm water runoff is highly visible and often encroaches into yards during peak flows. Given that underground storm water piping is not used in rural settings, it is natural for the overland storm water flows to be visible during and after large rain events. Each Owner/Builder shall

be deemed to be aware of this overland drainage system and is expected to grade the finished home sites accordingly.

4. **SET-BACK LINES AND LOT DIMENSIONS:** No buildings, structures, or parts thereof shall be constructed or maintained on Lots nearer to the property lines than the set-back lines provided herein or shown on the accompanying plat. Unless otherwise provided by easement or set-back lines shown on the accompanying plat, the minimum building set-back lines for dwellings or other outbuilding structures shall be:

Front Yard:	35 feet
Lot Side Yard:	10 feet
Other Side Yard:	15 feet
Back yard:	20 feet

5. **FENCES:** No fence shall be erected, placed or altered on any Lot closer to any street than the front of the main structure without the prior written approval of the Architectural Committee. All fencing must meet the requirements of the Architectural Guidelines as defined in the Master Declaration and the location and type of such fencing must be approved by the Architectural Committee. No fences shall be constructed upon walkways or access easements, which would impair or hinder the intended use thereof. Any fencing along the rear lot lines of the following lots shall be comprised of an ornamental iron/metal material such as an Ameristar Product: (1) the rear lot lines of Lots 2 through 28, inclusive in Block 1, (2) the rear lot line of Lot 1 in Block 2, and (3) the rear and northerly side yard lot lines of Lot 1 in Block 1.
6. **PROHIBITED USE:** In no event shall any owner of a Lot in The Bluffs use any golf course property or cart paths for walking, hiking or biking or other such uses. Access to the golf course property is expressly restricted to the authority and discretion of the Developer as may be delegated to the Association or other delegate of the Declarant and Patriot Golf, L.L.C., or as may be delegated by them from time to time. Further, in no event shall any Lot within The Bluffs and visible from the Patriot Golf Course be permitted to use or store outdoor living appliances and/or furniture with vivid or bright pastel colors such as turquoise, pink, orange, lavender, purple and the like.
7. **RULES AND RESTRICTIONS:** The rules and restrictions adopted in the Master Declaration shall be binding upon each Lot in the Bluffs Community.

## **ARTICLE VII** **RE-ARRANGING, RE-SUBDIVIDING OR RE-PLATTING**

No re-arranging, re-subdividing or re-platting of The Bluffs may be done without the prior written consent of the Declarant until such time as it has sold all the Lots, after which consent of the Association shall be required for such action.

**ARTICLE VIII**  
**DECLARANT'S RESERVED RIGHTS**

1. **GENERAL:** In addition to any rights or powers reserved to Declarant or granted to Declarant under the provisions of the Master Declaration or this Declaration, Declarant shall have the rights and powers set forth in this Article. In the event anything in this Declaration is contrary to the Master Declaration, the provisions of the Master Declaration shall govern. If not sooner terminated as provided in this Article, the Declarant's Authority as set forth herein shall terminate and be of no further force and effect from and after such time as Declarant is no longer vested with or controls title to all Lots and/or other property within Stone Canyon, after which the provisions of this Article and the rights and powers of the Declarant under this Declaration, but not the Master Declaration, shall vest in the Master Association; provided, however, nothing shall prohibit the Declarant from transferring any of Declarant's rights and/or authority with respect to The Bluffs to the Master Association or the Bluffs Association prior to Declarant being divested of title to all Lots and other property with Stone Canyon, all as Declarant may assign or delegate in writing to the Master Association or the Bluffs Association, as the case may be, without the necessity or requirement of consent or joinder by any party or the Master Association or Bluffs Association, and the Master Association and Bluffs Association, as the case may be, shall be conclusively deemed to have notice of such assignment or delegation upon its recordation in the Office of the Rogers County Clerk.
  
2. **PRIVATE ACCESS, ROADS AND ASSOCIATED APPURTENANCES:** Notwithstanding anything herein to the contrary, the Developer expressly reserves the right at any time and without the consent of any Owner of a Lot in The Bluffs, to dedicate or transfer all or any part of private access gate(s) and associated appurtenances, and/or private street(s) and/or easement, to any governmental body, public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by such authority.
  
3. **PROMOTION OF THE BLUFFS:** In connection with the promotion or sale of any improvements upon any property in The Bluffs: (a) Declarant shall have the right and power, within its sole discretion and for as long as Declarant owns any Lot and/or other property within Stone Canyon, to construct such temporary or permanent improvements, or to do such acts or other things in, on or to such property as Declarant may determine to be necessary including, without limitation, the right to construct and maintain model homes, sales offices, parking areas, advertising signs, lighting and banners, or other promotional facilities at such locations and in such forms as Declarant may deem advisable; and (b) Declarant and its respective guests, agents and prospective purchasers, shall have the right of ingress, egress and parking in and through, and the right to use and enjoy the Reserve Area(s) and Common Area(s) at any time without fee or charge.

4. **CONSTRUCTION ON PROPERTY WITHIN THE ADDITION:** Declarant is hereby granted the right and power to make such improvements to any property within The Bluffs as Declarant deems to be necessary or appropriate in its sole discretion. The Declarant may permit builders and other contractors access to and upon the Reserve Area(s) and Common Area(s) as Declarant may wish and subject to such limitation and condition as Declarant may require. Declarant and its respective agents and contractors shall have the right of ingress, egress and parking on the Reserve Area(s) and Common Area(s), and the right to store construction equipment and materials on the Reserve Area(s) and Common Area(s) without the payment of any fee or charge whatsoever.
  
5. **OTHER RIGHTS:** Declarant shall have the right and power to execute all documents and do all other acts and things affecting The Bluffs which Declarant determines in its sole discretion are necessary or desirable in connection with the rights of Declarant under this Declaration, including, but not limited to, the right to designate another entity of the Declarant's choice including, without limitation, the Master Association or the Bluffs Association, to assume or exercise the rights herein reserved to the Declarant.

#### **ARTICLE IX** **MISCELLANEOUS**

1. **ENFORCEMENT:** Enforcement of the Master Declaration and this Declaration shall be made in accordance with the terms and provisions of the Master Declaration.
  
2. **VARIANCE:** Any variance to these covenants, conditions and restrictions based upon conditions peculiar to an Owner's particular Lot or circumstances shall be reserved in the Architectural Committee in its sole and reasonable discretion. Notwithstanding anything herein to the contrary, the Declarant shall have no liability for any variances.
  
3. **CORRECTION ASSESSMENT:** In the event that the Owner of any Lot shall violate any covenant herein, the Master Association or the Bluffs Association or the Declarant shall have the right, upon twenty-four (24) days advance notice to the Owner of the Lot where the covenant violation(s) exists, and provided such violation is not corrected within the time period provided for in the notice, to enter upon said Lot and to remedy the violation(s). The cost for curing the violation(s) shall thereupon be assessed against the Lot and shall be a lien on such Lot, which may be enforced and foreclosed as contained in the Master Declaration.
  
4. **STORMWATER MANAGEMENT AND EASEMENTS:** Each Lot shall be subject to an easement in favor of Declarant and/or its designees for access to make reasonable grading and repair work, as well as to allow for the free flow of storm water across portions of such Lot; such entry shall be made only at reasonable times and with as little inconvenience as possible to the Owner of such Lot, and with advance notice to such Owner. Such easement shall not permit entry into any residence or garage, and any damage caused to the Lot or adjoining property entered by virtue of the use of such easement shall be repaired at the sole expense of the Owner of the Lot which is the object of the repair work. These storm water

management and drainage easements may be used by Declarant in The Bluffs for drainage purposes. Notwithstanding anything herein to the contrary, it shall be the responsibility of the Owners of the Lots on which such easements are located to maintain such easement for drainage purposes provided, that no obstruction(e.g., no barbecue pits, fencing material, swimming pools, etc.) trash or other debris shall be placed on or within said easements, nor shall any fill, change of grade, creation of channel, or other work be carried on without permission of the Declarant or Rogers County Department of Engineering. No grading, scraping, excavation or other re-arranging or puncturing of the surface of any Lot shall be commenced which will or may tend to interfere with, encroach upon or alter, disturb or damage any surface drainage or subsurface utility line, pipe, wire or easement, or which will or may tend to disturb the minimum or maximum sub-surface depth requirement of any utility line, pipe, wire or easement.

5. **NO WAIVER:** The failure of the Declarant, Master Association, the Bluffs Association, Owner or any grantor, or any successor in title, to enforce any given restriction or covenant, or condition at any time, shall not be deemed to be a waiver or relinquishment of any right or remedy, nor a modification of these restrictions and protective covenants.
6. **SEVERABILITY:** Invalidation of any one of these covenants, restrictions or conditions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.
7. **DISCLAIMER OF WARRANTY:** Except as expressly provided in writing, Declarant makes no warranty, express or implied, regarding Stone Canyon, including (without limitation) any Reserve Area(s) or improvement therein, the sufficiency of utilities, the stormwater management design, the workmanship, design or materials used in every improvement, including without limitation any express or implied warranty of merchantability, habitability, liability, fitness or suitability for any particular purpose or use or any warranty of quality.
8. **BINDING EFFECT; AMENDMENT:** The covenants, conditions and restrictions of this Declaration shall run with and bind the land, and shall be binding upon all parties and all persons claiming under them, and shall inure to the benefit of and be enforceable by the Declarant, the Master Association, the Bluffs Association, and the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term commencing with the recordation of this Declaration until December 31, 2057, after which time said covenants, conditions and restrictions of this Declaration shall be automatically extended for successive periods of twenty-five (25) years each unless Owners of not less than sixty percent (60%) of the Lots file a notice of termination no later than six (6) months prior to the expiration of such successive period. The covenants, conditions and restrictions of this Declaration may only be amended by the Declarant until and including December 31, 2057. Thereafter, the covenants, conditions and restrictions of this Declaration may be amended, in whole or in part, modified, added to or changed at any time by an instrument signed by the Owners of not less than fifty-one percent (51%) of the Lots. Any amendment must be properly recorded. Notwithstanding the foregoing or anything else

herein to the contrary, no amendment shall (a) delete, modify, supplement, or otherwise change any provision in the Master Declaration; or (b) remove The Bluffs from the Stone Canyon Community or otherwise exempt The Bluffs from the Stone Canyon Community Standards. In addition, the Declarant reserves the right to grant variances from any amendment to this Declaration in particular cases and further provided that they may be amended as follows:

(a). **SPECIAL AMENDMENT.** This Declaration may be amended unilaterally by Declarant at any time (i) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith; (ii) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, to enable such lender or purchaser to make or purchase mortgage loans on the property subject to this Declaration; (iii) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the property subject to this Declaration; (iv) to correct errors and make clarifications or additions in this Declaration; or (v) to modify or add to the provisions of this Declaration to adequately cover situations and circumstances which Declarant believes, in its reasonable judgment, have not been adequately covered and would not have a material and adverse effect on the marketability of Lots. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant to make or consent to any such amendment on behalf of each Owner. Each deed, mortgage, other evidence of obligation or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and consent to the reservation of, the power to Declarant to make, execute and record such amendments. The right and power of the Declarant to make such amendments hereunder shall terminate at such time as Declarant has sold all of its Lots and/or other property within Stone Canyon.

(b). **GENERAL AMENDMENTS:** Upon the conversion of Class B membership into Class A membership, (i) the provisions of this paragraph 8 may be amended only by an instrument executed by all of the Owners; and (ii) any provision relating to the rights of Declarant may be amended only with the written consent of Declarant. No amendment shall be effective until properly recorded. "Owners" shall not be deemed to include mortgagees or other persons holding liens on any lot and such mortgagees and other lienholders shall not be required to join in any amendment to this Declaration.

