

BILL OF ASSURANCE

CHEROKEE VILLAGE MEMORIAL CHAPEL

SHARP COUNTY, ARKANSAS

KNOW ALL MEN BY THESE PRESENTS:

That Cooper Communities, Inc., successors to John A. Cooper Company (formerly Cherokee Village Development Company, Inc.) by reason of merger, holds the title to all of the following described lands situated in Sharp County, Arkansas, to-wit:

A parcel of land lying in the E ½ of the NW ¼ (2.832 acres+) of Section 32, Township 19 North, Range 5 West of the Fifth Principal Meridian, Sharp County, Arkansas, being more particularly described as follows:

Beginning at the Quarter Section Corner of Sections 29 and 32, Township 19 North, Range 5 West, of the Fifth Principal Meridian, Sharp County, Arkansas; thence, West 610.70 feet to a point; thence, South 1022.21 feet to the point of beginning; thence, S00°22'25"W 499.18 feet to a point which lies on the northern right-of-way line of U. S. Highway Number 62 and 167; thence, along said right-of-way N 88°15' 40" W 16.53 feet; thence, N 87° 52' 40" W 233.58 feet along said right-of-way; thence, leaving said right-of-way line N 00° 22' 25" E 487.50 feet; thence, N 89° 25' 17" E 250.04 feet to the point of beginning, containing 2.832 acres, more or less.

Cooper Communities, Inc. has caused said land to be surveyed and subdivided. Said land has been named and shall henceforth be known and designated as Cherokee Village Memorial Chapel, Sharp County, Arkansas. Cooper Communities, Inc. has caused said land to be platted, which plat reflects the location of the lot and also the location, widths and the names of the streets and other vehicular ways, if any. All streets and other vehicular ways, if any, are dedicated to the public unless otherwise indicated upon the plat aforesaid, or as otherwise indicated herein.

The plat aforesaid of Cherokee Village Memorial Chapel, Cherokee Village Development, Sharp County, Arkansas, is recorded in Plat Book 11 at Page 101 in the office of the Circuit Clerk and Ex-Officio Recorder in and for Sharp County, Arkansas, and is filed for record simultaneously with the filing for record of this Bill of Assurance and this Bill of Assurance is likewise made a part of the plat aforesaid as fully as though written thereon word for word.

As a part of this Bill of Assurance, certain safeguards, restrictions and provisions hereinafter referred to as "Addition Restrictions and Provisions" are hereby placed on the described lot of said Addition.

ADDITION RESTRICTIONS AND PROVISIONS

I.

INTENT AND PURPOSES

It is the desire and intent of Cooper Communities, Inc, to place certain safeguards, restrictions and provisions upon the lot situated in said Addition for the use and benefit of the future owners of said property; therefore, in consideration of the premises and in consideration of the mutual agreements herein made and set forth, Cooper Communities, Inc., its successors, assigns and grantees, and for their successors in title, do hereby agree, subject to Paragraph A, Section IV hereof, that the said lot shall be and is hereby restricted as to use in the manner and to the extent hereafter set forth, and likewise all provisions relative thereto as hereafter set forth shall fully apply as to such lot.

All persons, firms and corporations who now own, or who shall hereafter acquire any interest in the lot mentioned herein, or affected hereby, shall be bound by the restrictions and provisions herein set forth, with the same force and effect as though they had joined in the execution of this instrument, it being the intention of Cooper Communities, Inc. that all restrictions and provisions set forth herein shall be held to be covenants running with the land, binding upon all persons interested in said lot throughout the whole period of time for which these restrictions and provisions shall remain in effect.

All persons, firms and corporations who now own, or who shall hereafter acquire any interest in the lot mentioned herein, hereby agree to become a member of any Commercial Property Owners Association which may be organized within Cherokee Village, Arkansas.

II.

ARCHITECTURAL CONTROL COMMITTEE

A. Cooper Communities, Inc. creates and establishes contemporaneously with and by this Bill of Assurance an Architectural Control Committee, hereinafter referred to as the "Committee" with the responsibility of maintaining values of the property lying within the Addition, as well as within the entire Cherokee Village Development, and also for the purpose of enforcing the restrictions and provisions herein provided, and waiving same in hardship cases, as well as passing and issuing additional orders, rules, restrictions and provisions in aid and furtherance of the purposes aforesaid.

B. The Architectural Control Committee is composed of Joe N. Basore, Andy Birdsell and Kenneth Blackwood; and a majority of the Committee may designate a representative to act for the Committee, and the action of such representative shall be as effective as if the entire Committee had acted. In the event of the death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Committee, nor its designated representative, shall be entitled to any compensation for services performed pursuant to this covenant.

The Committee's approval or disapproval of each submission of plans and specifications as required in these covenants shall be in writing; however, in the event the Committee, or its designated representative, fails to approve or disapprove a submission in writing within sixty (60) days after receipt of full and complete documentation as required in these covenants by the Committee, then written approval will not be required and approval by the Committee shall be presumed.

III.

ADDITION RESTRICTIONS

A. LAND USE:

Use of the lot shown upon the plat aforesaid shall be controlled by the notes on the recorded plat thereof and shall not be otherwise used without the prior written approval of the Architectural Control Committee.

B. APPROVAL OF PLANS:

No building, appurtenances thereto, or other structure shall be erected, placed or altered on the lot until full and complete construction plans and specifications and a topographical site plan showing the location of the proposed structure shall have been presented to and approved in writing by the Architectural Control Committee as to quality of workmanship and material, structural design and appearance, harmony of external design with the existing structures, and as to location with respect to property, topography and finish grade elevation. The Committee may require additional submissions which are, in its discretion, necessary for a full and complete review of the proposed construction in keeping with its responsibilities hereunder.

C. CONSTRUCTION OF BUILDINGS:

Prior to beginning construction of a building, appurtenances thereto or any other structure upon the lot herein, the owner of said lot shall furnish to the Architectural Control Committee proof that a suitable completion bond has been made by the contractor or builder to insure completion of the structure and to indemnify the owner against materialman's and mechanics' liens.

If the owner is his own builder, he shall furnish to the Architectural Control Committee satisfactory credit information and proof of financial ability to complete the structure within the time requirements hereinafter set forth.

In any case, the owner shall furnish the Architectural Control Committee with satisfactory proof that builder's risk insurance, including workman's compensation insurance, if applicable, will be in effect for the construction period.

#### D. COMPLETION OF BUILDING:

(1) The exterior of any structure erected on or moved upon the lot shall be completed within six (6) months after construction has begun, or within such other period of time as fixed by the Architectural Control Committee in their written approval for construction, and in accordance with the Cherokee Village Building Code as formally adopted by the Architectural Control Committee and approved by Cooper Communities, Inc. In the absence of such of such a building code, the provisions of the most recently revised edition of the Standard Building Code of the Southern Building Code Congress International, Inc. will be substituted. Completion of the exterior shall include completion of any and all kinds of details of exterior construction or finish which in their absence shall change the appearance of the structure from that approved by the Architectural Control Committee.

(2) The Interior of any structure erected or moved upon the lot shall be completed within twelve (12) months after construction has begun, or within such other period of time as fixed by the Architectural Control Committee in their written approval for construction, and in accordance with the Cherokee Village Building Code as formally adopted by the Architectural Control Committee and approved by Cooper Communities, Inc. In the absence of such a building code, the provisions of the most recently revised edition of the Standard Building Code of the Southern Building Code Congress International, Inc. will be substituted. Completion of the interior walls shall include completion of any kind and all kinds of details of interior construction or finish which in their absence shall change the appearance of the structure from that approved by the Architectural Control Committee. Electric wiring installed in any structure shall be in accordance with the standards required by the most recently revised edition of the National Electric Code or with the standards required by the local power company, whichever are more restrictive. Plumbing shall be in complete accordance with the requirements set up by the Arkansas State Health Department or the Standard Building Code of the Southern Building Code Congress International, Inc., whichever is more restrictive.

#### E. INSPECTIONS:

All structures will be submitted to inspections as required by the Architectural Control Committee and/or its representative to determine compliance with completion dates as herein provided and in accordance with the plans and specifications and other documentation upon which written approval for construction was granted by the Committee. In the event the completion dates and, requirements above provided are not met, the Architectural Control Committee shall have the right but not the obligation to hire a contractor to promptly complete the work in accordance with such requirements and to bill the owner for the amount expended plus 10% of such amount for administration. In the event that the owner does not pay said charges, the Architectural Control Committee shall have the right to file a lien against the property and proceed in law or equity to sell the property and obtain said charges. All money received over and above said charges and court costs shall be returned to the owner.

#### F. RESUBDIVISION:

No lot as shown on said plat shall be resubdivided without prior written approval of the Architectural Control Committee.

#### G. HEIGHT AND SETBACK LIMITATIONS:

Structures shall be controlled as to height and setback limits by the Architectural Control Committee, provided, however, that setback lines may not be less restrictive than those reflected upon the recorded plat, if any.

#### H. EASEMENTS FOR PUBLIC UTILITIES:

Cooper Communities, Inc. for itself, its successors and assigns, hereby reserves all easements for installation and maintenance of utilities and drainage facilities as reflected upon the recorded plat and as herein provided, and by reason of such reservation, shall have the right to install or have installed water mains, power lines or any other utility or drainage facility within such easements without notification to the lot owner; however, all such facilities will be placed within the easement wherever such installation would be most practical and least detrimental to the lot. Such easements as so reserved shall be assignable, perpetual, alienable and releasable on the part of Cooper Communities, Inc., its successors and assigns.

Within easements as reflected upon the recorded plat or as herein provided, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of

drainage channels within the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

In addition, Cooper Communities, Inc., for itself and its successors and assigns, hereby reserves and is given an assignable, perpetual, alienable and releasable easement, privilege and right on, in, over and under the hereinafter designated portions of the herein described lands to erect, maintain and use electric and telephone poles, wires, cables, conduits, water mains, drainage lines and drainage ditches or drainage structures, sewer and other suitable equipment and structures for drainage and sewerage collection and disposal purposes or for the installation, maintenance, transmission and use of electricity, telephone, gas, lighting, heating, water, drainage, sewerage and other conveniences or utilities on, in, over and under the following property reflected upon said plat:

- a. "Common Properties," in the event that there are any such designated properties upon said plat;
- b. All streets and other vehicular ways reflected upon said plat.

Cooper Communities, Inc. shall have the unrestricted and sole right and power of alienating and releasing the privileges, easements and rights referred to herein. The owners, other than Cooper Communities, Inc., of the lot or lots subject to the privileges, rights and easements referred to herein, shall acquire no right, title or interest in or to any poles, wires, cables, conduits, pipes, mains, lines or other equipment or facilities placed on, in, over or under the property which is subject, to said privileges, rights and easements. All such easements are and shall remain private easements and the sole and exclusive property of Cooper Communities, Inc. and its successors and assigns.

In addition, Cooper Communities, Inc., for itself, its successors and assigns, hereby reserves and is given a perpetual, alienable and releasable easement, privilege and right to place upon any "Common Properties" reflected upon the plat aforesaid' if, in fact, there are any such "Common Properties" reflected upon said plat, water pump stations, water reservoirs, overhead water reservoirs, water meter stations, water pressure reducing stations, water hydrants and water system structures, and Cooper Communities, Inc. likewise reserves unto itself, its successors and assigns, the specific right to transfer and convey such easement, privilege and right with or without any of such improvements located thereon.

#### I. FENCES:

No fence or wall may be constructed or erected on the lot until the construction plans and specifications therefore have been given specific written approval prior to construction, pursuant to and in accordance with Paragraphs B and E hereof, by the Architectural Control Committee.

This restrictive covenant shall not be construed so as to in any way lessen or limit the effect or intent of the preceding Paragraph J which shall control this covenant in all cases of conflict. If it becomes necessary to partially or completely remove any such fence or wall in order to install or maintain utility or drainage facilities within any easement reserved herein, the cost of such removal and reconstruction, if any, shall be borne by the lot owner.

#### J. SEWAGE DISPOSAL:

No building or structure shall be maintained or erected upon the lot unless the owners thereof shall install any sewer line extensions and appurtenances thereto necessary to connect to the then existing central sewer collection system serving said Addition. Said sewer line extension and appurtenances thereto shall be located and constructed in accordance with the requirements of the central sewer system owners and of the Arkansas State Department of Health. In the event that the owners of the central sewer system and the Arkansas State Department of Health give prior approval thereto, a temporary individual sewage system may be installed upon the lot in lieu of the construction of said sewer line extension and appurtenances thereto. Said individual sewage disposal system shall be located, constructed and operated in accordance with the requirements, standards and recommendations of the Arkansas State Department of Health. Said temporary individual sewage disposal system shall be abandoned and the building connected to the central sewerage collection system whenever the owner of the central sewerage collection system is prepared to accept the aforesaid necessary extension and appurtenances thereto.

K. GARBAGE AND REFUSE DISPOSAL:

No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste incidental to the use of the property as herein provided shall not be kept except in covered sanitary containers and disposition of same shall be prompt. There shall be no burning of trash, garbage, or other waste material upon the lot without the prior written approval of the Architectural Control Committee and provided that the facilities therefore have been installed and are operated and maintained in accordance with the Committee permit and all applicable laws, rules and regulations.

L. SIGHT DISTANCE AT INTERSECTIONS:

No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on the lot within the triangular area formed by the street property line and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitation shall apply on the lot within ten (10) feet from the intersection of street property line with the edge of a driveway or alley. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at a sufficient height to prevent obstruction of such sight lines.

M. NUISANCES:

No noxious or offensive activity shall be carried on upon any part of the above described premises nor shall anything be done thereon which may be or may become an annoyance or nuisance to the area or which may be or become offensive by reason of color, design or emission of odor, liquid, gas, smoke, vibration or noise or for any other reason.

N. TEMPORARY STRUCTURES:

No structures of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be constructed or placed or allowed to remain on the lot without approval by the Architectural Control Committee, nor shall any such structures be used on the lot at any time as a residence either temporarily or permanently.

O. SIGNS:

No sign of any kind shall be displayed to the public view on the lot or upon any building or other structure thereon except:

- a. Signs erected by the appropriate authorities for identification of streets, traffic control or directional purposes;
- b. Signs erected by the developer in connection with its development or sales program;
- c. Signs erected by the property owner to identify the use or establishment located on property;
- d. Signs of a temporary nature advertising property for sale or for lease or construction signs.

Signs in Sections c. and d. above shall require a permit of the Architectural Control Committee after submission of plans therefore, including additions or alterations thereto, and may not be erected without such permit.

P. OIL AND MINING OPERATIONS:

No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in the lot nor shall oil wells, tunnels, mineral excavations or shafts be permitted upon or in the lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon the lot.

Q. LIVESTOCK AND POULTRY:

No beehives or the breeding or raising of any insects, reptiles, fish, worms, animals, poultry, etc., of any kind shall be permitted on the lot when such activity will, in the opinion of the Architectural Control Committee, constitute an annoyance to the area.

IV.

GENERAL PROVISIONS

A. MODIFICATION:

Cooper Communities, Inc. reserves the right to change or cancel any or all of these restrictions, if in its judgment, the development or lack of development of adjacent property make that course necessary or advisable, or upon the organization of a Commercial Property Owners Association, it is deemed necessary and advisable by the Developer.

B. TERM:

These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed a majority of the then owners of the land contained in said Addition has been recorded agreeing to change said covenants in whole or in part.

C. ENFORCEMENT:

Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant which proceedings may be brought either to restrain violation or to recover damages.

D. SEVERABILITY:

Invalidation of any of these covenants by judgment or court order shall in nowise affect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, the said Cooper Communities, Inc., a corporation, has caused this instrument to be signed by its Exec.V President and its Asst. Secretary and its corporate seal to be affixed this 20<sup>th</sup> day of March, 1985.

ATTEST:

COOPER COMMUNITIES, INC.

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
President

STATE OF ARKANSAS)

ss.

ACKNOWLEDGMENT

COUNTY OF BENTON )

On this day before me, the undersigned, a Notary Public duly qualified, commissioned and acting within and for the said state and county, appeared in person the within named W. E. Sheneman and David Beattie, to me well known, who stated that they were Exec V President and Asst. Secretary of COOPER COMMUNITIES, INC., a corporation, and were duly authorized in their respective capacities to execute the foregoing instrument for and in behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

Witness my hand and Notarial Seal on this 20<sup>th</sup> day of March, 1985.

\_\_\_\_\_  
Notary Public

