

2006 33937  
Recorded in the Above  
Deed Book & Page  
07-10-2006 03:26:07 PM  
Brenda DeShields-Circuit Clerk  
Benton County, AR

Book/Tab: 2446/33937  
Tran: 4369.128838.369294  
Recorded: 07-10-2006 15:26:16  
DDE Deed  
REC-D

74.00  
4.44

**JULY 2006 AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR ROLLING ACRES SUBDIVISION**

This July 2006 Amended and Restated Declaration of Covenants, Conditions and Restrictions for Rolling Acres Subdivision (the "July 2006 Amendment") is made on the date hereinafter set forth by 67 Development Corporation, an Arkansas corporation ("67"), and PG Self Storage, LLC, an Arkansas limited liability company ("PG"), hereinafter collectively referred to as "Declarants".

**KNOW ALL MEN BY THESE PRESENTS:**

67 and other parties thereto executed and filed that certain Bill of Assurance on January 31, 2006 (the "Initial Declaration"), with respect to the Property set forth therein, and the Initial Bill of Assurance was recorded in the real estate records of Benton County, Arkansas at **Book 2006, Page 6230**; and

WHEREAS, at the time of execution of this July 2006 Amendment, 67 is the owner of 56 of the 94 Lots in the Development, and therefore is entitled to amend the Initial Declaration pursuant to Article XI, Section 3 of the Initial Declaration; and

WHEREAS, 67 desires that the Initial Declaration be amended and restated as set forth in this July 2006 Amendment (the Initial Declaration, and this July 2006 Amendment collectively referred to herein as the "Declaration").

**ARTICLE IDEFINITIONS**

Section 1. "Association" shall mean and refer to Rolling Acres Homeowners Association, Inc., a non-profit corporation incorporated under the laws of the State of Arkansas, and its successors and assigns.

Section 2. "Board of Directors" and "Board" shall mean and refer to the duly elected Board of Directors of the Association.

Section 3. "Common Area" and "Common Areas" shall mean all real property now owned or in which an interest is hereafter acquired by the Association or which is designated as "Common Area" and/or "Common Areas" on any recorded Plat of the Development and shall include any improvements thereon. Such areas shall be devoted to the common and private use

and enjoyment of Members.

Section 4. "Lot" and "Lots" shall mean and refer to (a) any parcel of land shown upon any recorded Plat of the Property upon which there has been or may be constructed a detached single-family residence.

Section 5. "Declarants" shall mean and refer collectively to 67 Development Corporation and P G Self Storage, LLC, or their successors or assigns, as the applicable Owner of Lots in the Development. For purposes of this July 2006 Amendment, neither 67 nor PG shall continue to be considered a Declarant if 67 or PG, as applicable, are the Owner of three (3) or fewer Lots.

Section 6. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions for Rolling Hills Subdivision, as amended by this July 2006 Amendment.

Section 7. "Development Period" shall mean and refer to that period of time in which both or either of the Declarants are the Owner of any Lot of the plat of the Property or any additional plats of new phases of this Development.

Section 8. "Member" shall mean and refer to those persons entitled to membership as provided in Article IV of this Declaration.

Section 9. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title in any Lot which is a part of the Property, but excluding those having such interest merely as security for the performance of an obligation.

Section 10. "Plat" shall mean any Plat of the Development recorded in the Real Estate Records of Benton County, Arkansas, in the Office of the Circuit Clerk and Ex-Officio Recorder of Benton County, Arkansas and any other plats to additional phases subsequently filed by Declarants to be under the jurisdiction of this Declaration.

Section 11. "Property" shall mean all that real estate described on the plat and that is subject to the Declaration and any additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 12. "Architectural Review Committee" and "ARC" shall mean and refer to Declarants, a committee of Association members, and/or others designated by Declarants or the Board, for the purpose of reviewing plans and specifications required to be reviewed and approved by the ARC as may herein be provided.

**ARTICLE I RESERVATIONS, EXCEPTIONS, DEDICATIONS AND  
CONDEMNATION**

Section 1. Incorporation of Plat. Any recorded Plat of Development dedicates for use as such, subject to the limitations set forth therein, certain streets and easements shown thereon, and such Plat further establishes certain dedications, limitations, reservations and restrictions applicable to the Property. All dedications, limitations, restrictions and reservations shown on any recorded Plat, to the extent they apply to the Property, are incorporated herein and made a part hereof as if fully set forth herein, and shall be construed as being adopted in each contract, deed and conveyance executed or to be executed by or on behalf of any of the Declarants, conveying each Lot within the Property.

Section 2. Reservation. It is expressly agreed and understood that the title conveyed by Declarants, to any Lot within the Property by contract, deed, or other conveyance shall not be held or construed in any event to include the title to any roadway or any drainage structure; water, gas, sewer, storm sewer structures, lines or pipes; electric light pole, electric power structure or line; telegraph, telephone, audio, video, security or communication facility, system line, or structure; or any pipes, lines, poles or conduits on or in any utility facility or appurtenances thereto constructed by or under Declarants or its agents through, along or upon the Property or any part of them to serve the Property, and the right to maintain, repair, sell, or lease such appurtenances to any municipality, or other governmental agency or to any public service corporation or to any other party is hereby expressly reserved in Declarants; provided Declarants shall not be required to maintain such appurtenances.

Section 3. Condemnation. If all or any part of Common Area is taken or threatened to be taken by eminent domain or by power in the nature of eminent domain (whether permanent or temporary), the Association shall be entitled to participate in proceedings incident thereto. The expense of participation in such proceedings by the Association shall be borne by the Association and paid for out of assessments collected pursuant to Article V hereof. The Association is specifically authorized to obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses and other persons as the Association in its discretion deems necessary or advisable to aid or advise it in matters relating to such proceedings.

All damages or awards for such taking shall be deposited with the Association, and such damages or awards shall be applied as follows. If an action in eminent domain is brought to condemn a portion of the Common Areas, the Association, in addition to the general powers set out herein, shall have the sole authority to determine whether to defend or resist any such proceeding, to make any settlement with respect thereto; or to convey such portion of the Property to the condemning authority in lieu of such condemnation proceeding. With respect to any such taking, all damages and awards shall be determined for such taking as a whole and not

for each Owner's interest therein. After the damages or awards for such taking are determined, such damages or awards shall be paid to the Association. The Association, if it deems advisable, may call a meeting of the Owners, at which meeting the Owners, by a majority of votes entitled to be cast, shall decide whether to replace or restore as far as possible, the Common Areas so taken or damaged. In the event it is determined that such Common Areas should be replaced or restored by obtaining other land, this Declaration shall be duly amended by instrument executed by the Association on behalf of the Owners. If it is determined that the Common Area should not be replaced, the funds received shall be donated to the Association.

Section 4. Jurisdiction of State and Local Governments. Notwithstanding anything to contrary contained herein, Declarants acknowledge that the property is subject to certain laws, rules, regulations, and ordinances of certain state and local governments having jurisdiction over it, and any construction of improvements within the Property shall be subject to such certain laws, rules, regulations, and ordinances of such state and local governments having jurisdiction over it in addition to the dedications, limitations, reservations and restrictions contained herein.

#### ARTICLE II PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Except as otherwise set forth herein, every Lot Owner who owns an interest in the Property shall have a right to an easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to grant or dedicate easements in, on, under or above the Common Areas or any part thereof to any public or governmental agency or authority or to any utility company for any service to the Property or any part thereof;
- (b) the right of the Association to prevent an Owner from planting, placing, fixing, installing or constructing any vegetation, hedge, tree, shrub, fence, wall, structure, sign or improvement or storing any personal property on the Common Areas or any part thereof without the prior written consent of the Association. The Association shall have the right to remove anything placed on the Common Areas in violation of the provisions of this subsection and to assess a fine and the cost of such removal against the Owner responsible;
- (c) the right of Declarants (and their sales agents and representatives) and its assigns to the non-exclusive use of the Common Areas and the facilities thereof, for display and exhibit purposes in connection with the sale of Lots within the Property, which right Declarants hereby reserve; provided, however, that such use shall not continue for a period of more than fifteen (15) years after conveyance of the Common Areas within the Property to the Association; provided, further, that no such use by Declarants or their sales agents or representatives shall otherwise unreasonably restrict the Members in their use and enjoyment of the Common Areas;

(d) the right of the Association to establish rules and regulations pertaining to the use by Members and others of any Common Areas owned by the Association; and

(e) the right of the Association to suspend the voting rights of an Owner and the Owner's right to use any Common Areas of the Association during the period the Owner is in default in excess of thirty (30) days in the payment of any maintenance charge assessment against a Lot and to suspend such rights for any infraction of its published rules and regulations. The aforesaid rights of the Association shall not be exclusive but shall be cumulative of and in addition to all other rights and remedies which the Association may have by virtue of this Declaration or its By-Laws or at law or in equity on account of any such default or infraction.

Section 2. Delegation of Use. Owners having an easement of enjoyment in and to the Common Areas may delegate, in accordance with the By-Laws, their right to or enjoyment of the Common Areas to members of their families, tenants, or contract purchasers who reside in Owner's residential dwelling.

Section 3. Waiver of Use. No Owner may be exempt from personal liability for assessments duly levied by the Association, nor release a Lot owned from the liens and charges hereof, by waiver of or suspension of the Owner's rights (pursuant to this Declaration or any By-Law of the Association) with regard to the use and enjoyment of the Common Areas thereon or by abandonment of Owner's Lot.

Section 4. Maintenance Right of Entry. Declarants and the Association shall have the right of ingress and egress over the entire Property (on any Lot or other property subject to the easement) to provide access to allow Declarants, the Association, or their agents and assigns to perform the purposes and matters set forth in this Declaration.

#### ARTICLE IV MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Each person or entity who is a record Owner of any of the Property which is subject to assessment by the Association shall be a Member of the Association. The Declarants shall be considered members so long as either Declarant owns any Lot or Lots in the Property. The foregoing is not intended to and does not include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership. Membership shall be a prerequisite to a dividend separated from ownership of the land which is subject to assessment by the Association.

Section 2. Voting Classes. The Association shall initially have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of 67 or PG (except as hereinafter provided) and shall be entitled to one vote for each Lot owned. When more than one person owns an interest in any Lot all such persons shall be members. The vote of

such Lot shall be exercised as the persons among themselves determine, but in no event shall more than one vote be cast with respect to each Lot owned. Tenants who are also not owners of a Lot shall not be members and shall not be entitled to any votes.

Class B. The Class B members shall be either 67 or PG, as applicable, and each Declarant shall be entitled to 4 votes for each Lot owned including Lots of any Lots in additional phases that may hereafter be made a part of the Development. Class B membership shall cease and be converted to Class A membership at such time as 67 and PG have conveyed, in the aggregate, fifty-five (55) Lots to Owners other than 67 or PG.

## ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Annual assessments and special assessments are to be established as hereinafter provided. For each Lot owned by an Owner, Owner by acceptance of deed for said Lot is deemed to covenant and agrees to pay annual and special assessments to the Association, whether or not it shall be so expressed in such deed. Declarants or any Builder to whom Declarants sell a Lot for the purpose of building a Dwelling for resale shall not pay annual assessments or special assessments to the Association, except on a voluntary basis; provided, however, Declarants shall be responsible for the cost and expense of maintenance and upkeep of any Common Areas until July 1, 2006. Further provided, that if any Builder rents or otherwise occupies a Dwelling after construction is complete, such Builder shall then become liable for assessments. There shall be no assessment against any Common Areas.

The regular and special assessments, together with interest, penalties, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing and contractual lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, penalty, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

Section 2. Purpose of Assessment. The assessments levied by the Association shall be used exclusively for the community, civic and social welfare and benefit of the Property and the Owners, for the purposes determined by the Association to be appropriate in accordance with its Articles of Incorporation and By-Laws, which may include, but is not required to include: municipal services; recreational services and facilities; improvement and maintenance of the Common Areas; maintenance and lighting of streets within the Development; police and security service; garbage and refuse removal and collection; mosquito abatement; police and services, facilities, and activities that may be in the Association's interest, including, but not limited to, costs associated with enforcing this Declaration.

Section 3. Amount of Annual Assessment. The amount of the annual assessment shall be \$300.00 per Lot which shall be payable on January 1 of each year or at such other time or times as may be designated by the Board. On any sale of a Lot by a Declarant, the Owner shall pay such assessment in advance on the date of conveyance to such Owner with the amount to be prorated based upon the number of months from the month of the conveyance to January 1. The maximum annual assessment may be increased above the rate specified above by a vote of a majority of the votes of members entitled to vote in person or by proxy, at a meeting duly called for such purpose.

From and after January 1, 2006, the maximum annual assessment may be increased each year by an amount no greater than fifteen percent (15%) above the maximum assessment for the previous year pursuant to a majority vote of the Board. The Board may, upon a majority vote thereof, after consideration of then current maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount.

Section 4. Special Assessments. In addition to the annual assessments authorized above, in any year after the calendar year 2005, the Association may levy a special assessment applicable to that year only for the purpose of defraying in whole or in part, the cost for necessary purposes of the Association, such as the construction, reconstruction, maintenance, repair or replacement of a capital improvement in the Common Areas, including fixtures and personal property related thereto, or for counsel fees or the fees of other retained experts provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members entitled to vote in person or by proxy, at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Section 3 and 4. Written notice of any meeting called for the purpose of taking any such action authorized under Section 3 or 4 hereof shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meetings shall be one-half (1/2) of the required quorum at the preceding meeting. Subsequent meetings can continue to be called in the aforesaid manner with the required quorum at any subsequent meeting(s) being one-half (1/2) of the required quorum at the preceding meeting until a quorum is present and votes are cast. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the maximum lawful rate. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot.

Section 7. Subordination of the Lien to Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer; provided, however, that the proceeds from any such sale, to the extent they exceed the first mortgage shall be used to satisfy the lien for assessments. No sale or transfer shall relieve such Lot from liability of any assessments which thereafter become due or from the lien thereof.

Section 8. Suspension of Rights of Membership. Prior to foreclosure of any lien upon any Lot subject to this Declaration, the Board of Directors of the Association may elect to suspend all membership rights of any Member or Members of the Association who are delinquent in any payment due to the Association for more than 30 days, with such suspension to continue for so long as any such delinquency exists, and said Board of Directors may further suspend membership rights for a period not to exceed 30 days for the infraction of any rules or regulations by the Member, family of the Members or guests of the Members, relating to the violation of any obligation, covenant, or condition herein or relating to the use of any of the Common Areas, with such suspension not to exceed 30 days in duration. Suspension of membership rights shall be effective from the date that notice of suspension is mailed to the Member via U. S. Certified Mail, Return Receipt Requested, postage prepaid, to the last known address of the said Member, and a copy of the notice shall be posted on any or all of the Common Areas during said suspension.

Section 9. Cancellation and Hearing. The said Board of Directors may elect to permanently cancel the membership and all membership rights of any Member who is delinquent in any payment due to the Association for more than 90 days or when such Member, family of the Member, or guest of the Member are guilty of repeated or flagrant violation after a hearing conducted by said Board of Directors, with notice of such hearing mailed to such Member at least 30 days in advance of said hearing date, and further provided that such Member may appeal any such decision of said Board of Directors to the membership of the Association by such affected Member calling a special meeting of the membership of the Association by notice mailed to each Member at least ten days in advance of the desired special meeting date, and said notice setting forth the time, date, place and purpose of said meeting. A majority of votes entitled to be cast of the Members of the Association attending such special meeting shall be necessary to override the decision of the Board of Directors, and all votes shall be by secret ballot. Notice shall be mailed by the Member via U. S. Certified Mail, postage prepaid, return receipt requested.



**ARTICLE VI  
ARCHITECTURAL CONTROL**

Section 1. Architectural Approval. The overall plan for the Development contemplates centralization of architectural control to enhance, insure and protect the attractiveness, beauty and desirability of the area as a whole while at the same time permitting compatible distinctiveness of individual developments within the area. For this purpose, Declarants shall have the right and responsibility to review and approve plans and specifications for all new construction on the Property. Further, all contractors constructing any improvements on the Lots must be approved by Declarants and must provide proof of adequate and appropriate insurance to the Declarants. Declarants shall also have the right to delegate to the Architectural Review Committee or to another party all or any part of its rights and responsibilities to create, administer, review and/or approve plans and specifications for new construction and to approve contractors on any part or all of the Property. At any time after ten years from the date of this Declaration, or the date upon which either of the Declarant are no longer the Owner of any Lot, whichever occurs first, the Declarants shall relinquish to the Association all its rights and responsibilities pertaining to the review and approval of plans and specifications for construction on the Property provided that the Association has an Architectural Review Committee designated for the purpose of reviewing and approving the plans and specifications for construction on the property; provided, that the Declarants shall have the option of relinquishing such control at any earlier time it elects.

It is accordingly covenanted and agreed that, in addition to any other ARC approval which may be required herein and subject to other provisions hereof, no building, fence, wall, or other structure shall be commenced, erected, or maintained upon the Property, nor shall any exterior addition to or change or alteration to such structures or the color thereof (including, without limitation, site landscaping visible from any part of the Property and grading plans, reroofing materials, patio covers and trellises, plans for off-street parking of vehicles and utility layout), be made until the plans and specifications of such showing, among other things, the nature, kind, shape, height, materials, color, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Declarants or any Architectural Review Committee established by it or by any person or entity to which the Declarants have delegated such authority and responsibility. In the event said ARC fails to approve or disapprove any such design or location within forty-five (45) days after said plans and specifications have been received by it, approval will not be required; and this Article will be deemed to have been fully complied with. All plans and specifications shall be submitted in writing over the signature of the Owner of the Lot or the Owner's authorized agent. The ARC shall have the right to require any Owner to remove or alter any structure which has not received approval or is built other than in accordance with the approved plans and to receive reimbursement from Owner for any costs expended in this effort. The requirement of this Article is in addition to any approvals or permits required by any appropriate governmental entity.

Section 2. Approval Required in Writing. All approvals shall be granted only in writing and by the Declarants or Architectural Review Committee as applicable.

Section 3. No Liability. Neither the Declarants and their assigns, the Association, its Board of Directors, nor the ARC or the Members thereof shall be liable in damages to anyone submitting plans or specifications to them for approval, or to any Owner of a Lot affected by these restrictions by reason of mistake in judgment, negligence, or disapproval or failure to approve or disapprove any such plans or specifications and no approval or required modification of plans submitted shall be considered a warranty of any nature whatsoever pertaining to the suitability of such plans and specifications. Every person who submits plans or specifications to the ARC for approval agrees, that no action or suit for damage will be brought against the Declarants, the Association, its Board of Directors, the ARC, or any of the members thereof.

Section 4. Rules and Regulations. The Declarants may, in its sole discretion, adopt, promulgate, amend and repeal rules and regulations interpreting and implementing the provisions of this Article VI.

Section 5. Variances. The ARC may recommend to the Board, and the Board may, by the vote or written consent of a majority of the members thereof, allow reasonable variances as to the covenants, conditions or restrictions contained in and Article IX of this Declaration under the jurisdiction of ARC pursuant to this Article VI, on such terms and conditions as it shall require; provided, however, that all such variances shall be in keeping with the general plan for the improvement and development of the Property.

## ARTICLE VII DUTIES AND MANAGEMENT OF THE ASSOCIATION

Section 1. Duties and Powers. In addition to the duties and powers enumerated in its Articles of Incorporation and By-Laws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall:

- (a) Own, have an interest in, maintain and otherwise manage all Common Areas, improvements and landscaping thereon, and all other property acquired by the Association.
- (b) Pay any real and personal property taxes and other charges assessed against the Common Areas unless such areas come into private ownership by some Owner other than the Association or the Declarants.
- (c) Have the authority to obtain, for the benefit of all of the Common Areas, all water, gas and electric and other utility services and refuse collection.
- (d) Grant easements where necessary for utilities, drainage, and sewer facilities over

the Common Areas, to serve the Common Areas and the Property in general.

- (e) Maintain such policy or policies of insurance as the Board of Directors of the Association may deem necessary or desirable in furthering the purposes of and protecting the interests of the Association and its Members.
- (f) Have the authority to contract for the performance of maintenance and repair and for conducting other activities on behalf of the Association; provided, no such contract shall exceed one year without Board approval.
- (g) Have the power to establish and maintain a working capital and contingency fund in an amount to be determined by the Board of Directors of the Association.
- (h) Have the power to establish and charge fines or penalties for violations of any restrictions, conditions, or covenants.
- (i) Have the duty to landscape and maintain the improvements, landscaping and entry markers upon the Common Areas and that hereafter may be further determined by Supplementary Declaration(s) of Covenants, Conditions and Restrictions.
- (j) Have the duty to maintain the perimeter walls or fences, if any, located at entrances to the Property, Common Areas, greenbelt buffers, and fencing and walls located on the Common Areas and portions of Lots that hereafter may be further determined by Supplementary Declaration(s) of Covenants, Conditions and Restrictions.
- (k) Have the duty to maintain all brick or concrete pavers located in the streets and sidewalks; all street lights and poles (other than the standard street lights and poles provided by the electric company); all parks in Common Areas; all landscaping located within street islands or within street right of ways; all street and regulatory signs and post (other than the standard street and regulatory signs and post).

## ARTICLE VIII UTILITY BILLS, TAXES AND INSURANCE

### Section 1. Obligations of Owners.

- (a) Each Owner shall have separate electric, gas and water meters and shall directly pay for all electricity, gas, water, sanitary sewer service, telephone service, security systems, cable television and other utilities used or consumed by Owner.
- (b) Each Owner shall directly render for taxation Owner's Lot and improvements thereon, and shall at Owner's own cost and expense directly pay all taxes levied or assessed against or upon Owner's Lot.

### Section 2. Obligations of the Association.

- (a) In addition to that as otherwise may be provided for herein, the Association shall pay, as a common expense of all Owners, for all water, gas, electricity and other utilities used in connection with the enjoyment and operation of the Common Areas or any part thereof.
- (b) The Association may render for taxation and, as part of the common expenses of all Owners, shall pay all taxes levied or assessed against or upon the Common Areas and the improvements and the property appertaining thereto.
- (c) The Association shall have authority to obtain and continue in effect, as a common expense of all Owners, a blanket property insurance policy or policies to insure the structures and facilities in the Common Areas and the contents thereof, and the Association against risks of loss or damage by fire and other hazards as are covered under standard extended coverage provisions, in such amounts as the Association deems proper, and said insurance may include coverage against vandalism and such other coverage as the Association may deem desirable. The Association shall also have the authority to obtain comprehensive public liability insurance in such amounts as it shall deem desirable, insuring the Association, its Board of Directors, agents and employees and each Owner (if coverage for Owners is available) from and against liability in connection with the activities and obligations of the Association.
- (d) All costs, charges and premiums for all utility bills, taxes and any insurance to be paid by the Association as hereinabove provided shall be paid as a common expense of all Owners and shall be paid out of the assessments.

## ARTICLE IX RESTRICTIONS OF USE FOR RESIDENTIAL LOTS

Section 1. Single Family Residential Construction. There shall be no Dwellings erected on any Lot other than a single family dwelling having at least a two-car enclosed garages with entrances from the front or side. No prefabricated, manufactured, mobile or modular

housing shall be placed on any Lot. Subject to Sections 3 and 10 of this Article, each Lot shall be used only for single-family residence purposes. No garage shall be converted to livable, occupied space without the approval of the ARC.

Section 2. Minimum Square Footage. All Dwellings in the Subdivision shall have a minimum of one thousand, seven hundred (1,700) square feet of heated area. All dwellings of more than one story shall have a minimum of one thousand, two hundred (1,200) square feet of heated area on the first floor. The minimum square footage requirements are exclusive of garages, porches, patios and decks.

Section 3. Prohibition of Offensive or Commercial Use. No activity which may become an annoyance or nuisance to the neighborhood or which shall in any way unreasonably interfere with the quiet enjoyment of each Owner of such Owner's Lot or which shall degrade property values or distract from the aesthetic beauty of the Property, shall be conducted thereon. No repair work, dismantling, or assembling of boats, motor vehicles or other machinery shall be done in any driveway or adjoining street. No part of the Property shall ever be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending or other such nonresidential purposes.

Notwithstanding the above, the Declarants may use the Property for model homes display and sales offices during the Development Period, during construction or until all new homes on the Property have been sold.

Section 4. Building Materials. The exterior of all Dwellings erected on the Lots shall be of a masonry veneer construction (such veneer may include rock veneer) to the extent that the exterior of each such Dwelling is at least seventy percent (70%) masonry veneer, excluding windows and doors. Stucco-like, EIFS materials may be used on dwellings below the top plate line if approved by the ARC. There shall be no man-made siding, such as Masonite, metal, vinyl, etc., on the front or sides of Dwellings, provided, however, such siding restrictions shall not apply to gables, soffits, facie, porches and dormers. All roof pitches shall be a minimum of 8/12 pitch; provided, however, either the front or side roofs must have a 10/12 pitch; further provided, however, that dormers and porch roofs are excluded from the preceding pitch requirements, but the pitch of such dormers or porch roofs must still be approved by the ARC. Any composition roof on any dwelling in the subdivision shall be a 25 year architectural shingle roof.

Section 5. Location of Improvements Upon the Lots. No building shall be located on any Lot nearer to the front line nor nearer to the side street line than the minimum building setback distances shown on any recorded Plat. The Declarants shall have the right to modify these setback criteria for any additional land annexed into the Association and made subject to this Declaration, and the Declarants shall establish building setback criteria for uses other than single-family residential on a case-by-case basis.

Section 6. Deviations. The Declarants, or the person or entity to whom the

Declarants delegate such authority (e.g., ARC), at their sole discretion, are hereby permitted to approve deviations in these restrictions on building area, location of improvements and building materials in instances where in its judgment, such deviation will not adversely affect the development of the Property as a whole. Such approvals must be granted in writing and when given will automatically amend these restrictions for that Lot only.

Section 7. No Lot Split. No Lot shall be split, divided or replatted without the express written approval of the Declarants or the ARC, which approval may be granted or withheld in the sole discretion of the Declarants or the ARC. Any such approved lot split shall still be subject to applicable regulations and ordinances.

Section 8. Utility Easement. Easements for installation and maintenance of utilities are reserved as shown on the recorded Plat, and no structure shall be erected on any of such easements. The Declarants shall not be liable for any damage done by it or its assigns, agents, employees or contractors to shrubbery, trees, flowers or improvements located on the land covered by such easements.

Utility companies shall not be liable for such damage unless they have agreed in writing to be responsible for such damage or an easement granted to them conditions such grant upon such responsibility.

Section 9. Audio and Video Communication Service. In the event that audio and video communication services and facilities are made available to any Lot by means of an underground coaxial cable system, there is hereby reserved to the company furnishing such services and facilities a two feet wide easement along and centered on the underground wire or cable when and as installed by the company furnishing the service from the utility easement nearest to the point of connection on the permanent improvement of structure constructed, or to be constructed, upon the Lot and in a direct line from the nearest utility easement to the point of connection.

Section 10. Temporary Structures and Out Buildings. No structures of temporary character, nor any manufactured home, mobile home, trailer, tent, shack, garage, barn, playhouse or other outbuilding shall be constructed, erected, altered, placed or permitted to remain on any Lot at any time, provided, however, that it is permissible to have a permanent storage building in the rear yard of a Lot provided that the square footage of such storage building does not exceed 250 square feet and is constructed of materials approved by the ARC that complement the Dwelling which it accompanies. Temporary structures may be used as sales offices or as construction offices and for other related purposes by the Declarants during the construction and sales period. Such structures shall be maintained and shall be removed at completion and sale of all construction of this Development.

Section 11. Animal Husbandry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except dogs, cats and other common household pets (not to

exceed two of each category) provided they are not kept, bred or maintained for commercial purposes. Notwithstanding the foregoing, no animals or fowl may be kept on the Property which result in an annoyance or are obnoxious to residents in the vicinity. Animals are not permitted to roam the Property and must be controlled on a leash if they are not on a Lot. No dog runs shall be allowed except with the permission of the ARC.

Section 12. Walls, Fences and Hedges. Before any fence or wall may be constructed on any residential Lot, plans must be submitted to the ARC showing the materials to be used and the location of the fence or wall and such plans must be approved by the ARC. In considering location of a fence, the ARC may consider, among other factors, the front fence line of adjacent properties. All fences or walls shall be constructed at a height of six (6) feet to maintain uniformity. Privacy fences and walls shall be constructed of wood or wrought iron materials. There shall be no chain link or cyclone fences allowed; provided, however, that black plastic coated chain link fence of a style and construction approved by the ARC in its sole discretion may be built in the back of Lots 19 through 30 and Lots 33 through 42 and on the west side of Lot 18. Further, construction of fences, walls and hedges are prohibited in or on the front lawn of any Lot.

Section 13. Antennae and Satellite Dishes. No communications mast, antenna, tower or other similar structure may be installed on any Lot, except that satellite dishes may be installed only on the rear roof or sides of a dwelling and shall not exceed the height of the lowest roof ridge line of such dwelling.

Section 14. Heating and Cooling Devices. No detached single-family dwelling, private garage or any other structure located on the Property shall be permitted to have a heating or cooling device located in a window or any other opening which can be viewed from any portion of the Property. Heating and cooling devices may be used in windows or other openings of any structure used by the Declarants during the construction and sale of all structures of this subdivision.

Section 15. Visual Screening. All equipment, sewer clean-out stubs, garbage cans, service yards, woodpiles, refuse containers, or storage piles and household projects such as equipment repair and construction projects shall be screened by adequate planting or fencing so as to conceal them from view of neighboring lots, streets, parks and public areas. All rubbish, trash, and garbage shall be kept in sanitary refuse containers with tightly fitting lids and shall be regularly removed from the Lots and not allowed to accumulate thereon. No basketball goals or other items of a similar nature shall be installed permanently in the front yard of any Lot nor shall any clothes line be permitted on the outside of any Dwelling.

Section 16. Visual Obstructions at the Intersections of Public Streets. No object or thing which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways within the triangular area formed by the junction of street curb lines and a line connecting them at points twenty-five (25) feet from the junction of the street curb lines (or

extensions thereof) shall be placed, planted or permitted to remain on any corner lots.

Section 17. Lot Maintenance. All Lots shall be kept at all times in a sanitary, healthful and attractive condition, and the Owner or occupant of all Lots shall keep all weeds and grass thereon cut and neatly maintained and shall in no event use any Lot for storage of material and equipment except for normal residential purposes or incident to construction of improvements thereon as herein permitted, or permit the accumulation of garbage, trash or rubbish of any kind thereon, and shall not burn any garbage, trash or rubbish. All Owners shall be required to have mandatory trash pick up as provided by the City of Bentonville, Arkansas. Further, upon the completion of construction of a Dwelling, the Owner shall sod the lawn area of the Lot from the back of such dwelling to the curb line.

Section 18. Storage of Automobiles, Boats, Trailers, Other Vehicles and Equipment. No automobiles, boats, trailers, campers, recreational vehicles, motorcycles, buses, inoperative vehicles of any kind, camp rigs off truck, or boat rigging shall be parked or stored permanently or semi-permanently on any public street right-of-way, front yard area, back-yard area, or on driveways. However, such vehicles may be stored in Dwelling garages or approved out-buildings. For the purposes of these restrictions, the words "semi-permanent" shall be defined as remaining in the same location without movement for forty-eight (48) or more consecutive hours, provided, however, that no vehicle of any type may be parked overnight in or on the streets of the Development. No eighteen-wheel vehicles and other similar large van or flat-bed type vehicles may be parked on any public street right-of-way, front yard area or on driveways except to deliver merchandise or other materials to residents or construction sites.

Section 19. Limited Access and Driveways. There shall be no access to any Lot on the perimeter except from designated streets or roads within the Development. No curb cut for such access shall be closer than five (5) feet to the side property line of any Lot. All curbs are to be neatly blended into the driveway radius.

Section 20. Sidewalks. Sidewalks shall be installed on each Lot in the manner required by applicable ordinances and regulations and shall be installed prior to the issuance of a certificate of occupancy for the Dwelling by the applicable governmental authority.

Section 21. Mail Receptacles. In order to ensure a uniform and complementary look, only mailboxes and receptacles approved by the ARC may be installed and used by Owners.

Section 22. Signs, Advertisements and Billboards. No sign, advertisement, billboard or advertising structure of any kind shall be displayed to the public view on any portion of a Lot or Common Areas except for one sign for each Lot of not more than 28 inches by 38 inches solely advertising the Lot for sale or rent, and except signs used by the Declarants to advertise the Lot during the construction and sales period. The Declarants and the Association shall have the right to remove any signs, advertisements or billboard or structure which is placed



on Lots or Common Areas, in violation of this section and in so doing shall not be subject to any liability for trespass or other tort in connection therewith or arising from such removal.

Section 23. Removal of Soil. The digging of soil or the removal of soil from any Lot is expressly prohibited except as necessary in conjunction with the landscaping of or construction on said Lot.

Section 24. Lot Drainage. Each Owner of a Lot agrees for himself, his heirs, or successors in interest that he will not in any way interfere with the established drainage pattern over his Lot from adjoining or other Lots in said tract; he will make adequate provisions for the proper drainage in the event it becomes necessary to change the established drainage over his Lot. For the purpose hereof, "established drainage" is defined as the drainage which occurred at the time that the overall grading of said tract, including landscaping of any Lots, and said tract was completed by 67.

Section 25. Water and Mineral Operations and Wind Generators. No oil or water drilling, oil or water development operations, oil refinery, quarry or mining operations or any kind shall be permitted on any Lot, nor shall oil or water wells, tanks, pumps, derricks, structures, mineral excavations or shafts be permitted on any Lot. No wind generators shall be erected or maintained on any Lot.

Section 26. Solar Collectors. No solar collectors shall be installed without written approval from the ARC. Such installation shall be in harmony with the design of the Dwelling. When reasonably possible, solar collectors shall be installed in a location not visible from the public street in front of the residence.

Section 27. Enforcement. In the event of default on the part of the Owner or occupant of any Lot in observing any or all of the requirements herein set forth, such default continuing after ten (10) days written notice thereof, the Declarants or the Association may, without liability to the Owner or occupant, in trespass or otherwise, enter upon said Lot, cut, or cause to be cut, such weeds and grass, and remove or cause to be removed, such garbage, trash or rubbish or do any other thing necessary to secure compliance with these restrictions, so as to place said Lot in a neat, attractive, healthful and sanitary condition, and may charge the Owner or occupant of such Lot for the cost of such work. The Owner or occupant, as the case may be, agrees by the purchase or the occupation of the Lot to pay such statement immediately upon receipt thereof. To secure the payment of such charges in the event of nonpayment by the Owner, a vendor's and continuing contractual lien shall be retained by the Declarants at the time of conveyance of each Lot in favor of the Declarants or Association, but inferior to a purchase money lien or mortgage. Such vendor's and continuing contractual lien shall be applicable and effective whether mentioned specifically or omitted in each conveyance of a Lot by the Declarants.

**ARTICLE X  
RESERVE FUNDS; LEASES**

Section 1. Reserve Fund. Association budgets shall include an adequate reserve fund for maintenance, repairs and replacement of those elements of the Common Areas and Common Facilities and to insure any and all obligations of the Association that will be payable in installments as part of the common assessment.

Section 2. Leases. Any lease agreement between an Owner and a lessee shall be subject in all respects to the provisions of this Declaration, the By-Laws and Articles of Incorporation of the Association whether or not reference is made to the Declaration, By-Laws and Articles of Incorporation in the lease.

#### ARTICLE XI GENERAL PROVISIONS

Section 1. Enforcement. The Association and any Owner shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens or charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants, conditions or restrictions shall not affect any other provision, which shall remain in full force and effect.

Section 3. Duration: Amendment. The provisions of this Declaration shall run with and bind the Property for a term of twenty-five years from this date, after which time they shall be automatically extended for successive periods of ten years.

Deeds of conveyance of Lots or any part thereof, may contain the above restrictive covenants by reference to this document, but whether or not such reference is made, each and all of such restrictive covenants shall be valid and binding upon the restrictive grantees.

This Declaration may be amended during the first twenty-five year period by an instrument signed by a sufficient number of Owners representing not less than two-thirds (2/3) of the votes in the Association, and thereafter by an instrument signed by a sufficient number of Owners representing not less than fifty percent of the votes.

However, 67 Development Corporation shall have the right during the Development Period, without joinder or consent of any Owner, Developer, Builder or mortgagee, to amend this Declaration or the By-Laws by an instrument in writing duly signed, acknowledged and filed for record, for any purpose whatsoever. Furthermore, the Declarants shall have the right to make additional restrictions in any deed conveying title to a Lot.

All amendments shall be recorded in the Official Public Records of Real Property of

Benton County, Arkansas.

Section 4. Books and Records. The books and records of the Association shall, during reasonable business hours, be subject to reasonable inspection by any Member. The Board of Directors may, by resolution, establish rules and regulations governing the frequency of inspection and other matters to the end that inspection of the books and records by any Member will not become burdensome to nor constitute harassment of the Association. The Declaration, the Articles of Incorporation and By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

Section 5. Notices. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

Section 6. Good Faith Lender's Clause. Any violation of these covenants, conditions or restrictions shall not affect any lien or deed of trust of record held in good faith, upon any Lot, which liens may be enforced in due course, subject to the terms of this Declaration.

Section 7. Mergers. Upon a merger or consolidation of the Association with another association as provided by its Articles of Incorporation, its properties, assets, rights and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, assets, rights and obligations of another association may be transferred to the Association as a surviving corporation. The surviving or consolidated association shall administer the covenants, conditions and restrictions contained in this Declaration, under one administration. No such merger or consolidation shall cause any revocation, change or addition to this Declaration.

Section 8. Annexation.

(a) Notwithstanding any other provision herein, the Declarants shall have the sole right and privilege, without the consent of any other Owners or any First Mortgagee, to bring additional property within the scheme of the Declaration, in one (1) or more future stages, sections or additions, within fifteen (15) years of the date of recording of this instrument. Further, any land annexed to the Property and subject to this Declaration may be acquired (by gift, purchase or otherwise) and/or designated as Common Areas by the Association without the consent of any Owners or any First Mortgagee. Additional land that is added or annexed shall become subject to assessment in accordance with Article V.

(b) The additions authorized under this Section shall be made by filing of record: (a) Supplementary Declaration(s) of Covenants, Conditions and Restrictions with respect to the additional lands which shall (i) extend the scheme of the covenants and restrictions or this

Declaration to such lands and (ii) provide, if applicable, that the proportionate ownership interests in the Common Areas or the Owners by virtue of Association membership immediately prior to the filing of such Supplementary Declaration shall be equal to the number of Lots owned by such Owner divided by the total number of Lots within the lands then subject to this Declaration after such annexation; and (b) a deed from the Declarants to the Association which shall convey to the Association the area within such additions (except for the Lots therein) as Common Areas for the sole benefit and use of the Owners, with reservation of the Declarants' rights set forth herein.

Section 9. Deannexation.


- (a) Land or lands may be deannexed from the Property with the consent of two-thirds (2/3) of each class of members and the approval of the Owner(s) of the land to be deannexed.
- (b) Notwithstanding anything contained in Subparagraph (a) above, or any other provision herein, 67 Development Corporation shall have the right, without the consent of any other Owners or any First Mortgagee, to deannex land from the scheme of the Declaration if the Owner of the land is agreeable to the deannexation and if the deannexation would benefit the general development process or general development plan.
- (c) The deannexations authorized under this Section shall be filed of record.

Section 11. Additional Phases. The Declarants shall have the sole right, without joinder or consent of any Owner, Developer, Builder or Mortgagee, to file additional plats in the office of the Circuit Clerk and Ex-Officio Recorder of Benton County, Arkansas to add additional phases which shall be subject to this Declaration; provided, however, that the Declarants shall have the sole right and privilege, without the consent of any other Owners or any First Mortgagee or the Association, to subject additional phases to the jurisdiction and administration of the Association, whether or not such phases shall be subject to this Declaration, within fifteen (15) years of the date of the recording of this instrument.


IN WITNESS WHEREOF, the undersigned being the Declarants herein, have hereunto set their hands and seals the date set forth in the Acknowledgment for each Declarant.

DECLARANTS:

**67 DEVELOPMENT CORPORATION,**  
an Arkansas corporation

By:   
Name: Roy Jones  
Title: President

**PG SELF STORAGE, LLC,**  
an Arkansas limited liability company

By:   
Name: David E. Brewer  
Title: \_\_\_\_\_

STATE OF ARKANSAS )  
 )ss. **ACKNOWLEDGMENT**  
COUNTY OF BENTON )

On this the 6 day of July, 2006, before me, Ray Jones, the undersigned officer, personally appeared, who acknowledged himself to be the President of 67 Development Corporation, a corporation, and that he, as such president, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as president.

G IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 6 day of July, 2006.



Notary Public

My Commission Expires: **JESSE HAND  
NOTARY PUBLIC-STATE OF ARKANSAS  
BENTON COUNTY  
My Commission Expires 02-01-2014**

STATE OF ARKANSAS )  
 )ss. **ACKNOWLEDGMENT**  
COUNTY OF BENTON )

On this the 6 day of July, 2006, before me, DAVID BOZINGER the undersigned OFFICER; personally appeared, who acknowledged himself to be the MEMBER of P G Self Storage, LLC, a limited liability company, and that he, as such president, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by himself as MEMBER.

6 IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 6 day of July, 2006.



Notary Public

My Commission Expires: **JESSE HAND  
NOTARY PUBLIC-STATE OF ARKANSAS  
BENTON COUNTY  
My Commission Expires 02-01-2014**

2006 33959  
Recorded in the Above  
Deed Book & Page  
07-10-2006 03:26:07 PM  
Brenda DeShields-Circuit Clerk  
Benton County, AR

**EXHIBIT A  
TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
ROLLING ACRES SUBDIVISION**

A part of the North Half of the Southeast Quarter of Section 10, Township 19 North, Range 31 West, Benton County Arkansas, more particularly described as beginning at the Southwest corner of the East Half of the Northwest Quarter of the Southeast Quarter; thence North 2E28'20" East 1081.90 feet to the center of a creek; thence with said creek the following courses: North 88E01'31" East 50.00 feet; thence North 80E56'44" East 100.00 feet; thence North 76E39'19" East 95.00 feet; thence North 53E30'40" East 50.00 feet; thence North 79E10'29" East 120.00 feet; thence North 68E06'30" East 30.00 feet; thence South 75E56'58" East 95.00 feet; thence North 59E49'32" East 60.00 feet; thence North 41E25'46" East 50.00 feet; thence North 0E04'40" East 65.00 feet to a P.K. Nail on the North line of the Northwest Quarter of the Southeast Quarter; thence South 87E21'48" East 62.97 feet to a cotton spindle for the Northwest corner of the Northeast Quarter of the Southeast Quarter; thence continuing South 87E21'49" East 467.08 feet; thence South 02E24'27" West a distance of 149.86 feet; thence South 08E08'13" West a distance of 50.08 feet; thence South 02E24'27" West a distance of 244.00 feet; thence South 03E18'11" East a distance of 50.25 feet; thence South 02E24'27" West a distance of 122.00 feet; thence North 87E35'33" West a distance of 25.00 feet; thence South 02E24'27" West a distance of 122.00 feet; thence South 36E56'39" East a distance of 64.66 feet; thence South 02E24'27" West a distance of 122 feet; thence South 87E35'33" East a distance of 5.79 feet; thence South 02E24'27" West a distance of 127.00 feet; thence South 87E35'33" East a distance of 51.98 feet; thence along a tangent arc to the right having a radius of 78.01 feet and an arc length of 33.19 feet, a chord bearing of South 78E06'48" East, and a chord distance of 32.94; thence South 68E38'03" East a distance of 35.27 feet; thence South 27E15'11" West 112.17 feet; thence South 02E24'26" West a distance of 161.86 feet; thence North 87E36'04" West a distance of 560.56 feet; thence North 87E36'04" West 658.00 feet, to the Point of Beginning, containing 32.53 acres, more or less, subject to any easements or rights-of-way of record or fact.

Benton County, AR  
I certify this instrument was filed on  
07-10-2006 03:26:07 PM  
and recorded in Deed Book  
2006 at Pages 33937 - 33959  
Brenda DeShields-Circuit Clerk