

TABLE OF CONTENTS OF
DECLARATION OF COVENANTS CONDITIONS
AND RESTRICTIONS OF
SUN BOWL WEST TOWNHOMES

ARTICLE 1 -- DEFINITIONS		1
Section 1. <u>Declaration</u>		1
Section 2. <u>Plat or Map</u>		1
Section 3. <u>Property or Properties</u>		1
Section 4. <u>Common Area</u>		1
Section 5. <u>Limited Common Area</u>		1
Section 6. <u>Lot</u>		2
Section 7. <u>Townhome</u>		2
Section 8. <u>Owner</u>		2
Section 9. <u>Association</u>		2
Section 10. <u>Member</u>		2
Section 11. <u>Trustees</u>		2
Section 12. <u>Declarant</u>		2
Section 13. <u>Mortgage</u>		2
ARTICLE II -- PROPERTY RIGHTS		2
Section 1. <u>Title to the Common Area</u>		2
Section 2. <u>Owners' Easements of Environment</u>		2
Section 3. <u>Limited Common Area</u>		3
Section 4. <u>Delegation of Use</u>		3
Section 5. <u>Rules</u>		3
ARTICLE III -- MEMBERSHIP AND VOTING RIGHTS		3
Section 1. <u>Membership</u>		3
Section 2. <u>Voting Rights</u>		3
ARTICLE IV -- FINANCES AND OPERATIONS		4
Section 1. <u>Creation of the Lien and Personal Obligation of Assessments</u>		4
Section 2. <u>Purpose of Assessment</u>		4
Section 3. <u>Maximum Annual Assessment</u>		4
Section 4. <u>Special Assessments for Capital Improvements</u>		4
Section 5. <u>Additional Assessments</u>		4
Section 7. <u>Uniform Rate of Assessment</u>		5
Section 8. <u>Date of Commencement of Annual Assessments Due Dates</u>		5
Section 9. <u>Effect of Non-Payment of Assessment - Remedies of the Association</u>		5
Section 10. <u>Subordination Of the Lien to Mortgages</u>		6
Section 11. <u>Books, Records and Audit</u>		6
ARTICLE V -- INSURANCE		6
Section 1. <u>Casualty Insurance on Insurable Common Area</u>		6
Section 2. <u>Replacement or Repair of Property</u>		7
Section 3. <u>Liability Insurance</u>		7
Section 4. <u>Fidelity Insurance</u>		7
Section 5. <u>Annual review of Policies</u>		7

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Section 2.	<u>Sharing of Repair and Maintenance</u>	7
Section 3.	<u>Destruction by Fire or Other Casualty</u>	7
Section 4.	<u>Weatherproofing</u>	8
Section 5.	<u>Right to Contribution Runs with Land</u>	8
Section 6.	<u>Arbitration</u>	8

ARTICLE VII-- ARCHITECTURAL CONTROL COMMITTEE 8

ARTICLE VIII -- EXTERIOR MAINTENANCE 8

Section 1.	<u>Exterior Maintenance</u>	8
Section 2.	<u>Maintenance by Owner</u>	8
Section 3.	<u>Access at Reasonable Hours</u>	9

ARTICLE IX -- USE RESTRICTIONS 9

Section 1.	<u>Construction, Business and Sales</u>	9
Section 2.	<u>General Use Restrictions</u>	9
Section 3.	<u>Signs: Commercial Activity</u>	9
Section 4.	<u>Quiet Enjoyment</u>	9
Section 5.	<u>Animals</u>	9
Section 6.	<u>Use of Common Area</u>	9
Section 7.	<u>Parking</u>	10
Section 8.	<u>Planting and Gardening</u>	10
Section 9.	<u>External Apparatus</u>	10
Section 10.	<u>Exterior Television or Other Antennas</u>	10
Section 11.	<u>Garbage Removal</u>	10
Section 12.	<u>Oil and Mining Operations</u>	10
Section 13.	<u>Interior Utilities</u>	10
Section 14.	<u>Leases</u>	10

ARTICLE X -- EASEMENTS 11

Section 1.	<u>Encroachments</u>	11
Section 2.	<u>Utilities</u>	11
Section 3.	<u>Police, Fire and Ambulance Service</u>	11
Section 4.	<u>Maintenance by Association</u>	11
Section 5.	<u>Other Easements</u>	11

ARTICLE XI -- GENERAL PROVISIONS 11

Section 1.	<u>Enforcement</u>	11
Section 2.	<u>Severability</u>	11
Section 3.	<u>Duration</u>	12
Section 4.	<u>Amendment</u>	12
Section 5.	<u>Notices</u>	12
Section 6.	<u>Gender and Grammar</u>	12
Section 7.	<u>Waivers</u>	12

ARTICLE XII -- ASSIGNMENT OF POWERS 13

DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS OF
SUN BOWL WEST TOWNHOMES

THIS IS A DECLARATION of Covenants, Conditions and Restrictions which establishes a planned unit development known as Sun Bowl West Townhomes.

RECITALS

Declarant is the owner of certain real property (the "properties") in St. George, Washington County Utah, which is more particularly described below.

Declarant will convey the properties subject to certain protective covenants, conditions, restrictions, reservations, assessments, charges and liens as hereinafter set forth.

It is the desire and intention of Declarant to construct townhomes and sell and convey the same to various purchasers, and to convey common area to an Association in which the townhome owners will be members.

DECLARATION

Declarant hereby declares that all of the properties described below shall be held, sold, conveyed and occupied subject to the following covenants, conditions, restrictions, easements, assessments, charges and liens, and to the Map recorded concurrently. This is for the purpose of protecting the value and desirability of the properties. This Declaration and the Map shall be construed as covenants or equitable servitude, shall run with the properties and be binding on all parties having any right, title or interest in the properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

The Properties are located in St. George, Washington County, Utah, and are described as:

ALL OF LOT 3, BLOCK 46, PLAT B, ST. GEORGE CITY SURVEY

ARTICLE 1 -- DEFINITIONS

The following definitions control in this Declaration. These terms, though defined, are generally not capitalized in the Declaration.

Section 1. Declaration means this instrument, and any amendments.

Section 2. Plat or Map means the subdivision plat recorded herewith entitled "SUN BOWL WEST TOWNHOMES," consisting of one sheet, prepared and certified by Bush & Gudgell, Inc., a Utah Registered Land Surveyor" or any replacements thereof, or additions thereto.

Section 3. Property or Properties means that certain real property hereinbefore described and such additions thereto as may hereafter be subjected to this Declaration.

Section 4. Common Area means that portion of property owned by the Association, shown on the plat as dedicated to the common use and enjoyment of the owners.

Section 5. Limited Common Area means that portion of property owned by the Association, shown on the plat as dedicated to the exclusive use and enjoyment of the owner of the lot to which such limited common area is adjacent and/or appurtenant. Limited Common Area is subject to rights of

the Association set forth in this Declaration.

Section 6. Lot means a separately numbered and individually described plot of land shown on the plat designated for private ownership, but specifically excludes the common and limited common areas.

Section 7. Townhome means a single family dwelling, with or without walls or roofs in common with other single family dwelling lots. "Townhome" includes fee title to the real property lying directly beneath the single family dwelling, within lot boundary lines.

Section 8. Owner: means the entity, person, or group of persons owning fee simple title to any lot which is within the properties. Regardless of the number of parties participating in ownership of each lot, the group of those parties shall be treated as one "owner."

Section 9. Association means Sun Bowl West Townhomes Association, its successors and assigns.

Section 10. Member means every person or entity who holds membership in the Association. Every member is an owner, and every owner is a member.

Section 11. Trustees means the governing body of the Association.

Section 12. Declarant means Terra Firma Enterprises, and the Declarants' heirs, successors and assigns.

Section 13. Mortgage includes "deed of trust" and mortgagee includes "trust deed beneficiary."

ARTICLE II -- PROPERTY RIGHTS

Section 1. Title to the Common Area The Declarant will convey fee simple title to the common area and limited common area to the Association, free and clear of all encumbrances and liens, prior to the conveyance of the first lot, but subject to this Declaration, and easements and rights-of-way of record. In accepting the deed, the Association will covenant to fulfill all the terms of this Declaration, to maintain the common area in good repair and condition at all times and to operate the common area at its own expense in accordance with high standards.

Section 2. Owners' Easements of Environment Every owner has a right and easement of use and enjoyment in and to the common area. This easement is appurtenant to and passes with the title to every lot, subject to:

(a) The right of the Association to charge reasonable admission, use, service and other fees for the use of any service or recreational storage, or parking facility situated upon the common area. No fees shall be charged for parking specifically designated on the plat as appurtenant to a lot.

(b) The right of the Association to limit the number of guests of members using the common area.

(c) The right of the Association to suspend the voting rights and/or common utility service of a member for any period during which any assessment or portion thereof against his lot remains unpaid; and for a period of not to exceed sixty (60) days for any infraction of its published rules and regulations.

(d) The right of the Association to enter into agreements or leases which provide for use of the common areas and facilities by a similar Association in consideration for use of the common areas and facilities of the other Association, or for cash consideration;

(e) The right of the Association with the approval of sixty-seven percent (67%) of each class of owners, to sell, exchange, hypothecate, alienate, mortgage, encumber, dedicate, release or transfer all or part of the common area to any private individual, corporate entity, public agency,

authority, or utility.

- (f) The right of the Association to grant easements for public utilities or other public purposes consistent with the intended use of the common area by the Association.
- (g) The right of the Association to take such steps as are reasonably necessary or desirable to protect the common area against foreclosure.
- (h) The terms and conditions of this Declaration.
- (i) The right of the Association, through its Trustees, to adopt rules and regulations concerning use of the common area.

Section 3. Limited Common Area A lot owner is entitled to the exclusive use of the limited common area adjacent and appurtenant thereto, if any, and to exclusive use of the parking area, if any, designated with his lot number on the plat. The Association, through its Trustees, may adopt rules and regulations concerning use of the limited common area. Limited common area is subject to the rights of the Association set forth in this Declaration.

Section 4. Delegation of Use An owner is deemed to delegate his right of enjoyment to the common area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property. No one who is non-resident shall have any such delegable right of enjoyment.

Section 5. Rules The Board of Trustees shall have the authority to promulgate rules and regulations for the governance of the Properties, and persons within the Properties. These rules of the Association shall be compiled and copies shall be made available for inspection and copying by the Trustees.

ARTICLE III -- MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership Every owner is a member of the Association. The term "owner" includes contract purchasers but does not include persons who hold an interest merely as security for the performance of an obligation unless and until title is acquired by foreclosure or similar proceedings. Membership is appurtenant to and may not be separated from lot ownership. Membership in the Association automatically transfers upon transfer of title by the record owner to another person or entity.

Section 2. Voting Rights The Association has two classes of voting membership:

CLASS A. Class A members are all members with the exception of the Declarant. Class A members are entitled to one vote for each lot owned. When more than one person holds an interest in any lot, the group of such persons shall be a member. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot. A vote cast at any association meeting by any of such co-owners, whether in person or by proxy, is conclusively presumed to be the vote attributable to the lot concerned unless written objection is made prior to that meeting, or verbal objection is made at that meeting, by another co-owner of the same lot. In the event an objection is made, the vote involved shall not be counted for any purpose except to determine whether a quorum exists.

CLASS B. The Class B member is the Declarant. The Class B member is entitled to three (3) votes for each lot owned. The Class B membership will cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) upon conveyance of seventy-five percent (75%) of the lots subject to this Declaration to purchasers; or
- (b) the expiration of seven (7) years from the first lot conveyance to a purchaser.

ARTICLE IV -- FINANCES AND OPERATIONS

Section 1. Creation of the Lien and Personal Obligation of Assessments The Declarant and each subsequent 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, covenants and agrees to pay to the Association (1) annual assessments or charges; (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided; (3) any other amount or assessment levied or charged by the Association or Board of Trustees pursuant to this Declaration, and (4) interest, costs of collection and a reasonable attorney's fee, as hereinafter provided. All such amounts shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment or amount is charged. Such assessments and other amounts shall be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. Successors-in-title shall not be personally liable for assessments delinquent at the time they took title unless that obligation is expressly assumed by them.

Section 2. Purpose of Assessment The assessments levied by the Association shall be used (a) for the purpose of promoting the recreation, health, safety, and welfare of the residents of the properties; and (b) for the improvement and maintenance of properties, services, and facilities devoted to this purpose. The assessments must provide for but are not limited to, the payment of taxes on Association property and insurance maintained by the Association; the payment of the cost of repairing, replacing, maintaining and constructing or acquiring additions to the common and limited common areas; the payment of the cost of repairing, replacing, and maintaining the exteriors of each lot; the payment of administrative expenses of the Association; insurance deductible amounts; the establishment of a reserve account for repair, maintenance and replacement of those common and limited common areas which must be replaced on a periodic basis; and other amounts required by this Declaration or that the Trustees shall determine to be necessary to meet the primary purposes of the Association. The assessments may provide, at the discretion of the Trustees, for the payment of other charges including (without limitation) maintenance, management, utility, cable television, trash collection, sewer and water charges.

Section 3. Maximum Annual Assessment Until January 1 following recording of this Declaration, the maximum annual assessment shall be Nine Hundred and sixty dollars \$ 960 per lot. This amount shall be the basis of calculation for future maximum annual assessments.

(a) From and after the date referred to above the maximum annual assessment shall be increased each year by five percent (5%) above the maximum assessment for the previous year, without a vote of the membership.

(b) The Association may change the basis and maximum of the assessments fixed by this Section prospectively for any annual period provided that any such change shall have the assent of sixty-seven percent (67%) of the votes of each class of members, voting in person or by proxy, at a meeting duly called for this purpose.

Section 4. Special Assessments for Capital Improvements In addition to the annual assessments, the Association may levy in any assessment year a special assessment, applicable to that year only. Special assessments may only be levied to defray, in whole or in part, the cost of any construction, reconstruction, repair or replacement of common or limited common area structures, fixtures and personal property related thereto. Special assessments must have the assent of sixty-seven percent (67%) of the votes of each class of the members authorized to vote, in person or by proxy, at a meeting duly called for this purpose.

Section 5. Additional Assessments In addition to the annual assessments and special assessments for capital improvements authorized herein, the Association shall levy such additional assessments as may be necessary from time to time for the purpose of repairing and restoring the damage or disruption resulting to streets or other common or limited common areas from the activities of the City of St. George in maintaining, repairing or replacing the City's utility lines and facilities thereon. It is acknowledged that the ownership of said utility lines, underground or otherwise is in the

City up to and including the meters for individual units, and that they are installed and shall be maintained to City specifications.

Section 6. Notice and Quorum for Any Action Authorized Under Sections 3, 4 and 5 Written notice of any meeting of members called for the purpose of taking any action authorized under Sections 3, 4 or 5 shall be sent to all members at least thirty (30) days in advance of said meeting. At the first meeting called, the presence at the meeting 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 quorum requirement is not met at such a meeting, another meeting may be called, on at least thirty (30) days advance written notice, and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Uniform Rate of Assessment Periodic Assessment Both annual and special assessments must be fixed at a uniform rate for all lots; provided, however, that assessments shall not accrue against the Declarant so long as the Declarant has Class B membership on the condition that the Declarant shall fund any fiscal deficiency in the operations of the Association until the termination of Class B Membership. This method of determining the assessments, dues and charges may not be changed without the prior written approval of all first mortgagees.

Annual, special and additional assessments may be collected on a monthly or quarterly basis, as the Trustees determine.

Section 8. Date of Commencement of Annual Assessments Due Dates The annual assessment provided for herein shall commence to accrue on the first day of the month following conveyance of the common area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. In the absence of a determination by the Trustees as to the amount of said assessment, the annual assessment shall be an amount equal to 90% of the maximum annual assessment provided above.

At least thirty (30) days prior to the commencement of each new assessment period, the Trustees shall send or cause to be sent a written notice of the annual assessment to each owner subject thereto. This notice shall not be a pre-requisite to validity of the assessment.

The assessment due dates shall be established by the Trustees. The Trustees may provide for the payment of annual and special assessments in equal installments throughout the assessment year.

The Trustees shall prepare a roster of the properties and the assessments applicable thereto at the same time that it shall fix the amount of the annual assessment, which roster shall be kept by the Treasurer of the Association, who shall record payments of assessments and shall allow inspection of the roster by any member at reasonable times.

The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessment on a specified lot has been paid. Such certificates, when properly issued, shall be conclusive evidence of the payment of any assessment or fractional part thereof which is therein shown to have been paid.

Section 9. Effect of Non-Payment of Assessment - Remedies of the Association Any assessment or installment thereof not paid within thirty (30) days after the due date therefor shall be delinquent and shall bear interest from the due date at the rate of eighteen percent (18%) per annum (or such lesser rate as the Trustees shall determine appropriate) until paid. In addition, the Trustees may assess a late fee for each delinquent installment which shall not exceed ten per cent (10%) of the installment.

The Trustees may, in the name of the Association, (a) bring an action at law against the owner personally obligated to pay any such delinquent assessment without waiving the lien of assessment, or (b) may foreclose the lien against the property in accordance with the laws of the State of Utah applicable to the exercise of powers of sale in deeds of trust or to the foreclosure of mortgages, or in any other manner permitted by law, and/or (c) may restrict, limit, or totally terminate any or all services performed by the Association in behalf of the delinquent member.

There shall be added to the amount of any delinquent assessment the costs and expenses of any action, sale or foreclosure, and a reasonable attorney's fee, together with an account for the reasonable rental for the lot from time to time of commencement of the foreclosure. The Association shall be entitled to the appointment of a receiver to collect the rental income or the reasonable rental without regard to the value of the other security.

A power of sale is hereby conferred upon the Association which it may exercise. Under the power of sale the lot of an owner may be sold in the manner provided by Utah law pertaining to deeds of trust as if said Association were beneficiary under a deed of trust. The Association may designate any person or entity qualified by law to serve as Trustee for purposes of power of sale foreclosure.

No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common area or by abandonment of his lot.

Section 10. Subordination Of the Lien to Mortgages The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage held by an institutional lender or insured by the Federal Housing Administration or the Veterans Administration if the mortgage was recorded prior to the date the assessment became due. Sale or transfer of any lot shall not affect the assessment lien.

However, the sale or transfer of any lot pursuant to foreclosure of a first mortgage or any proceeding in lieu thereof, shall extinguish the assessment lien as to payments which became due prior to such sale or transfer. No sale or transfer, however, shall relieve a lot or owner from personal liability for assessments coming due after he takes title or from the lien of such later assessments.

Section 11. Books, Records and Audit The Association shall maintain current copies of the Declaration, Articles, Bylaws, Rules and other similar documents, as well as its own books, records and financial statements which shall all be available for inspection by lot owners and insurers as well as by holders, insurers and guarantors of first mortgages during normal business hours upon reasonable notice. Charges shall be made for copying, researching or extracting from such documents. A lot owner or holder, insurer or guarantor of a first mortgage may obtain an audit of Association records at its own expense so long as the results of the audit are provided to the Association.

ARTICLE V -- INSURANCE

Section 1. Casualty Insurance on Insurable Common Area The Trustees shall keep all insurable improvements and fixtures of the common area insured against loss or damage by fire for the full insurance replacement cost thereof, and may obtain insurance against such other hazards and casualties as the Association may deem desirable. The Association may also insure any other property whether real or personal, owned by the Association, against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as the owner and beneficiary of such insurance.

The insurance coverage with respect to the common area shall be written in the name of, and the proceeds thereof shall be payable to, the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Association are common expenses which shall be included in the regular annual assessments made by the Association.

In addition to casualty insurance on the Common Area, the Trustees may elect to obtain and continue in effect, on behalf of all owners, adequate blanket casualty and fire insurance in such form as the Trustees deem appropriate in an amount equal to the full replacement value, without deduction for depreciation or coinsurance, of all of the Townhomes including the structural portions and fixtures thereof. Insurance premiums from any such blanket insurance coverage, and any other insurance premiums paid by the Association shall be a common expense of the Association to be included in the regular annual assessments as levied by the Association. The insurance coverage with respect to the Townhomes shall be written in the name of, and the proceeds thereof shall be payable to the Association as trustee for the owners.

Section 2. Replacement or Repair of Property In the event of damage to or destruction of any part of the common area improvements, the Association shall repair or replace the same from the insurance proceeds available. If such insurance proceeds are insufficient to cover the costs of repair or replacement of the property damaged or destroyed, the Association may make a reconstruction assessment against all lot owners to cover the additional cost of repair or replacement not covered by the insurance proceeds, in addition to any other common assessments made against such lot owner.

In the event that the Association is maintaining blanket casualty and fire insurance on the Townhomes, the Association shall repair or replace the same to the extent of the insurance proceeds available.

In the event of damage or destruction by fire or other casualty to any portion of the development covered by insurance written in the name of the Association, the Trustees are empowered to and shall represent the members in any proceedings, negotiations, settlements or agreements. The Association is appointed attorney-in-fact of each owner for this purpose.

Section 3. Liability Insurance The Trustees shall obtain a comprehensive policy of public liability insurance covering all of the common and limited common property for at least \$1,000,000.00 per occurrence for personal or bodily injury and property damage that results from the operation, maintenance or use of the common areas. Liability insurance policies obtained by the Association shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an owner because of negligent acts of the Association or other owners.

Section 4. Fidelity Insurance The Trustees may elect to obtain fidelity coverage against dishonest acts on the part of managers, Trustees, officers, employees, volunteers, management agents or others responsible for handling funds held and collected for the benefit of the owners or members. In procuring fidelity insurance the Trustees shall seek a policy which shall (1) name the Association as obligee or beneficiary, plus (2) be written in an amount not less than the sum of (i) three months' operating expenses and (ii) the maximum reserves of the Association which may be on deposit at any time, and (3) contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee."

Section 5. Annual review of Policies All insurance policies shall be reviewed at least annually by the Trustees in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacements of the property which may be damaged or destroyed.

ARTICLE VI -- PARTY WALLS

Section 1. General Rules of Law to Apply Each wall which is built as a part of the original construction upon the properties and placed on the dividing line between the lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty If a party wall is destroyed or damaged by fire or other casualty, then, to the extent said destruction or damage is not covered by insurance and repaired out of the proceeds of the same, any owner who has used the wall may restore it, and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, to the right of any such owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing Notwithstanding any other provision of this article, an owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements to the extent that said protection is not covered by insurance and paid for out of the proceeds of the same.

Section 5. Right to Contribution Runs with Land The right of any owner to contribution from any other owner under this article shall be appurtenant to the land and shall pass to such owner's successors-in-title.

Section 6. Arbitration In the event of any dispute arising concerning a party wall, or under the provisions of this article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator within ten (10) days of their selection, and the decision shall be by a majority of all the arbitrators. Should any party refuse to appoint an arbitrator within ten (10) days after written request to do so, the Trustees of the Association shall select an arbitrator for the refusing party.

ARTICLE VII-- ARCHITECTURAL CONTROL COMMITTEE

No structure, building, fence, wall or addition, extension or expansion of any of the foregoing shall be commenced, erected or maintained upon the properties, nor shall any exterior addition or change or alteration to any lot or townhome be made until the plans and specifications showing the nature, kind, shape, height, materials, colors 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 Trustees or, if such a committee is in existence, by an Architectural Control Committee composed of three (3) or more representatives appointed by the Trustees. In the event said Trustees, or their designated committee fail to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and compliance with this article will be deemed to have been made.

Notwithstanding the foregoing, without the prior written approval of at least sixty-seven percent (67%) of the owners, neither the Association nor the Architectural Control Committee shall have the power, by act or omission, to change, waive or abandon any plan, scheme or regulations pertaining to the architectural design or the exterior appearance or maintenance of townhomes and lots, and the maintenance of the common and limited common areas, including walls, fences, driveways, lawns and plantings.

The Declarant Shall not be required to comply with the provisions of this paragraph in the initial construction of the properties.

ARTICLE VIII -- EXTERIOR MAINTENANCE

Section 1. Exterior Maintenance In addition to maintenance upon the common area and limited common area, the Association shall provide exterior maintenance upon each townhome and lot, including, but not limited to the following: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, fences, street signs, lights, mailboxes, trees, shrubs, grass, walks, driveways and other exterior improvements. The cost of regular exterior maintenance shall be a common expense and shall be added to and become part of the regular annual assessment.

Section 2. Maintenance by Owner Each owner shall be solely responsible for maintenance to glass, doors and screens on his lot or townhome, and for any maintenance on his lot or townhome required due to willful or negligent acts. In the event an owner shall fail to perform this maintenance in a manner satisfactory to the Trustees, as determined by a 2/3 vote, they shall have the right to have such maintenance performed. The cost of such maintenance shall be added to and become part of the assessment to which such lot is subject.

Section 3. Access at Reasonable Hours For the purpose solely of performing the maintenance required by this article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the owner, to enter upon any lot or limited common area at reasonable hours.

ARTICLE IX -- USE RESTRICTIONS

Section 1. Construction, Business and Sales Notwithstanding any provisions to the contrary herein contained, it shall be expressly permissible for Declarant to maintain such facilities and conduct such activities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the construction and sale of lots during the period of construction and sale of said lots and upon such portion of the premises as Declarant deems necessary including but not limited to a business office storage areas, construction yard, signs, model units and sales offices. As part of the overall program of development of the properties into a residential community and to encourage the marketing thereof, the Declarant shall have the right of use of the common area and facilities thereon, including any community buildings, without charge during the sales and construction period to aid in its marketing activities.

Section 2. General Use Restrictions All of the properties which are subject to this declaration are hereby restricted to residential dwellings, and buildings in connection therewith, including but not limited to community buildings on the common property. All buildings or structures erected in the properties shall be of new construction and no buildings or structures shall be removed from other locations to the properties. After the initial construction on a lot, no subsequent building or structure dissimilar to that initially constructed shall be built on that lot. No building or structure of a temporary character, trailer, basement, tent, camper, shack, garage, barn or other outbuilding shall be placed or used on any lot at any time.

Section 3. Signs: Commercial Activity Except for one "For Rent" or "For Sale" signs of not more than two (2) square feet, no advertising signs, billboards, objects of unsightly appearance, or nuisances shall be erected, placed, or permitted to remain on any lot or any portion of the properties. No commercial activities of any kind whatever shall be conducted in any building or on any portion of the properties. The foregoing restrictions shall not apply to the commercial activities, signs and billboards, if any, of the Declarant or its agents during the construction and sales period or by the Association in furtherance of its powers and purposes set forth hereinafter and in its Articles of Incorporation, Bylaws and Rules and Regulations, as the same may be amended from time to time.

Section 4. Quite Enjoyment No noxious or offensive activity shall be carried on upon any part of the properties nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the owners or which shall in any way increase the rate of insurance.

Section 5. Animals No animals, livestock or poultry of any kind shall be raised, bred or kept on any of said lots, except that dogs, cats or other household pets, two or less in total number, may be kept provided that they are not kept, bred or maintained for any commercial purpose. Notwithstanding the foregoing, no animals or fowl may be kept on the property which result in an annoyance or are obnoxious, by noise, smell or otherwise, to lot owners. All pets must be kept in the lots or on a leash when in the common areas. This provision may be made more restrictive by Rule of the Association.

Section 6. Use of Common Area Except for the rights of ingress and egress, owners are hereby prohibited and restricted from using any of said common area, other than as permitted in this declaration of covenants or as may be allowed by the Trustees. It is expressly acknowledged and agreed by all parties concerned that this restriction is for the mutual benefit of all owners of lots in the

properties and is necessary for the protection of the interests of all said owners in and to the common area.

As part of the overall program of development of the properties into a residential community and to encourage the marketing thereof, the Declarant shall have the right of use of the common area and facilities thereon, including any community buildings, without charge during the sales and construction period to aid in its marketing activities.

Section 7. Parking. No motor vehicle which is inoperable shall be allowed within the Properties, and any motor vehicle which remains parked over 72 hours shall be subject to removal by the Association, at the owner's expense. If parking spaces are designated on the plat with numbers corresponding to Lot numbers, each such space is for the exclusive use of the lot owner with the corresponding number. If parking areas are not designated on the plat with lot numbers, the Trustees may assign vehicle parking space for each lot. Parking spaces within the Properties shall be used for parking of motor vehicles actually used by the owner or his immediate family or guests for personal use and not for commercial use, and for guest parking. Recreational vehicles, boats, travel trailers and similar property may not be parked within the Properties unless permitted by rule of the Association.

Section 8. Planting and Gardening No planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon any property except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Trustees.

Section 9. External Apparatus No lot owner shall cause or permit anything (including, without limitation, awnings, canopies or shutters) to hang, be displayed or otherwise affixed to or placed on the exterior walls or roof or any part thereof, or on the outside of windows or doors, without the prior written consent of the Trustees.

Section 10. Exterior Television or Other Antennas No exterior radio or other antennas, except one television antenna which shall not exceed four feet in height, per lot, shall be placed, allowed or maintained upon any lot or upon any structure or portion of the improvements situated and located upon the properties without prior written approval of the Trustees.

Section 11. Garbage Removal All rubbish, trash and garbage shall be regularly removed from the lots and shall not be allowed to accumulate thereon. Garbage should be placed in proper containers.

Section 12. 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 properties of any lot. No derrick, lift, shaft or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon the properties or any lot.

Section 13. Interior Utilities All utilities, fixtures and equipment installed within a lot, commencing at a point where the utility lines, pipes, wires, conduits or systems enter boundaries of a lot, shall be maintained and kept in repair by the owner thereof. An owner shall do no act nor any work that will impair any easement or hereditament nor do any act nor allow any condition to exist which will adversely affect the other lots or owners.

Section 14. Leases Any lease or rental agreement shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, the Articles of Incorporation, Bylaws and Rules and Regulations of the Association and that any failure by lessee to comply with the terms of such documents shall be a default under the lease.

any rule of the Association, the party against whom enforcement is sought shall pay to the Association or enforcing owner a reasonable attorney's fee. The Trustees may levy a fine or penalty not to exceed 10% of the amount of the maximum annual assessment against any owner who fails to refrain from violation of these covenants or a rule of the Association, after three (3) days written notice.

Section 2. Severability All of said conditions, covenants and reservations contained in this Declaration shall be construed together, but if any one of said conditions, covenants, or reservations, or any part thereof, shall at any time be held invalid, or for any reason become unenforceable, no other condition, covenant, or reservation, or any part thereof, shall be thereby affected or impaired; and the Declarant, Association and owners, their successors, heirs and assigns shall be bound by each article, section, subsection, paragraph, sentence, clause and phrase of this Declaration, irrespective of the invalidity or unenforceability of any other article, section, subsection, paragraph, sentence, clause or phrase.

Section 3. Duration The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the owner of any lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns for a term of twenty (20) years from the date this declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years.

Section 4. Amendment The covenants, conditions and restrictions of this Declaration may be amended by an instrument signed by not less than sixty-seven percent (67%) of the owners. Any amendment must be properly recorded in the records of Washington County, Utah, to become effective.

Notwithstanding the foregoing, the Declarant reserves the right for so long as he shall have Class B membership status, to unilaterally amend the Declaration to comply with City, State or other laws, or regulations or requirements of holders, insurers, or guarantors of first mortgages, subject to compliance with applicable guidelines of the Federal Housing Administration or Veterans Administration.

Section 5. Notices Any notice required to be sent under the provisions of this Declaration shall be deemed to have been properly sent when deposited in the U.S. Mail, postpaid, to the last known address of the person who is entitled to receive it.

Section 6. Gender and Grammar The singular, wherever used herein, shall be construed to mean the plural when applicable, and the necessary, grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

Section 7. Waivers No provision contained in the Declaration shall be deemed to have been waived by reason of any failure to enforce it, irrespective of the number of violations which may occur.

Section 8. Topical Headings The topical headings contained in this Declaration are for convenience only and do not define, limit or construe the contents of the Declaration.

ARTICLE XII - ASSIGNMENT OF POWERS

Any and all rights and powers of Declarant herein contained may be delegated, transferred or assigned.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 15th day of July 1994.

DECLARANT:

TERRA FIRMA ENTERPRISES
A GENERAL PARTNERSHIP

By William T. Gardner
William T. Gardner, Partner

STATE OF UTAH)
COUNTY OF SEVIER)

On this 15th day of July, 1994, before me personally appeared William T. Garner, who, being by me duly sworn (or affirmed), did say that he is partner in Terra Firma Enterprises, A General Partnership, and that the foregoing document was signed by him on behalf of that partnership by authority of its articles.

Maxine Durfee
NOTARY PUBLIC
Address: Richfield, Utah
My Commission Expires: 9/25/94

