

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF
THE COTTAGES AT HOBBLE CREEK

ENT 124110 BK 5284 PG 138
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
1999 Nov 29 12:26 pm FEE 123.00 BY SS
RECORDED FOR T & M DEVELOPMENT

A Mountain Home Development

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
THE COTTAGES AT HOBBLE CREEK is executed this 29 day of
November, 1999 by T & M Development, L.C., a Utah limited liability company
("Declarant").

RECITALS:

- A. Capitalized terms in this Declaration are defined in Article I.
- B. The Declarant holds legal title to a certain tract of real property located in Utah County, Utah, and more particularly described in Article II of this Declaration. It is intended that various Lots created pursuant to this Declaration will be conveyed to Owners in fee simple.
- C. By this Declaration, Declarant intends to establish a common scheme and plan for the possession, use, enjoyment, repair, maintenance, restoration and improvement of the Property and the interests therein conveyed and to establish thereon a mountain home development in accordance with the terms hereof.

NOW, THEREFORE, it is hereby declared that the Property shall be held, sold, conveyed, leased, rented, encumbered and used, subject to the following Declaration and its covenants, restrictions, limitations, and conditions, all of which shall constitute covenants which run with the land and shall be binding on and be for the benefit of the Declarant, its successors and assigns and all owners of all or any part of the Property, together with their grantees, successors, heirs, executors, administrators, devisees and assigns, all as set forth herein.

ARTICLE 1

DEFINITIONS

When used in this Declaration (including in that portion hereof headed "Recitals") the following terms shall have the meaning indicated.

1.1 Architectural Control Committee or Committee shall mean and refer to the committee established pursuant to the provisions of Article 10, below, to review proposed improvements to the Lots for compliance with the design guidelines established for the Project..

1.2 Articles or Articles of Incorporation shall mean and refer to the Articles of Incorporation of the Association which shall be filed with the Utah State Department of Commerce, Division of Corporations and Commercial Code at or about the time this Declaration is filed for record.

1.3 Association shall mean and refer to THE COTTAGES COMMUNITY ASSOCIATION, INC. a Utah nonprofit corporation.

1.4 Board of Trustees or Board shall mean and refer to the governing board of the Association which shall be appointed or elected in accordance with the Declaration, the Articles of Incorporation and Bylaws of the Association.

1.5 Bylaws shall mean and refer to the Bylaws of the Association as amended from time to time.

1.6 Common Elements shall mean and refer to that part of the Property which is not included within the Lots, including all roadways within the Project and all improvements other than utility lines now or hereafter constructed or located thereon.

1.7 Common Expenses shall mean and refer to those costs and expenses arising out of or connected with the maintenance and operation of the Project and Association as described in Article V hereof and which determine the assessments made to Owners.

1.8 Common Expense Fund shall mean and refer to the fund created or to be created pursuant to the provisions of Article V of this Declaration and into which all monies of the Association shall be deposited. Two separate and distinct funds shall be created and maintained hereunder, one for operating expenses and one for reserves, which together shall constitute the Common Expense Fund.

1.9 Declaration shall mean and refer to this Declaration of Covenants, Conditions and Restrictions of The Cottages at Hubble Creek, as the same may hereafter be modified, amended and supplemented.

1.10 Declarant shall mean and refer to T & M Development, L.C., and/or any successor thereof which, either by operation of law or through a voluntary conveyance, transfer, or assignment, comes to stand in the same relation to the Property (or a portion thereof) as did its predecessor.

1.11 Eligible Mortgagee shall mean and refer to a First Mortgagee which has requested notice of certain matters from the Association in accordance with Section 12.1 of this Declaration.

1.12 FNMA shall mean and refer to the Federal National Mortgage Association.

1.13 First Mortgage shall mean any Mortgage which is not subject to any lien or encumbrance except liens for taxes or other liens which are given priority by statute.

1.14 First Mortgagee means any person named as a Mortgagee under a First Mortgage, or any successor to the interest of any such person under a First Mortgage, which First Mortgage is not subject to any lien or encumbrance except liens for taxes or other liens which are given priority by statute.

1.15 Lot shall mean and refer to any of the separately numbered and individually described parcels of land now or hereafter shown on the Plat.

1.16 Manager shall mean and refer to the person, firm or company, if any, designated from time to time by the Association to manage, in whole or in part, the affairs of the Association and Project.

1.17 Member shall mean and refer to every person who holds membership in the Association.

1.18 Mortgage shall mean any mortgage, deed of trust, or other document pledging any portion of a Lot or interest therein as security for the payment of a debt or obligation.

1.19 Mortgagee shall mean a beneficiary of a Mortgage as well as a named Mortgagee.

1.20 Owner shall mean the person or persons, including the Declarant, owning in fee simple a Lot in the Project, as such ownership is shown by the records of the County Recorder of Utah County, State of Utah. The term "Owner" shall not refer to any Mortgagee (unless such Mortgagee has obtained title in fee simple to a Lot pursuant to a judicial or nonjudicial action, including, without limitation, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure) or to any person or persons purchasing a Lot under contract (until such contract is fully performed and legal title conveyed of record).

1.21 Plat shall mean and refer to the plat map for The Cottages at Hobble Creek recorded in the office of the County Recorder of Utah County, Utah, and all amendments thereto.

1.22 Project shall mean and refer to the Property and the plan of development and ownership of the Property created and governed by this Declaration, the Articles and the Bylaws.

1.23 Property shall mean and refer to the entire tract of real property now or hereafter covered by the Plat. A description of the real property covered by the Plat on the effective date of this Declaration is set forth in Article II of this Declaration.

ARTICLE 2

PROPERTY DESCRIPTION

The Property initially associated with the Project which is and shall be held, transferred, sold, conveyed, and occupied subject to the provisions of this Declaration consists of certain real property situated in Utah County, State of Utah and more particularly described on Exhibit "A", which is attached hereto and incorporated herein by this reference.

ARTICLE 3

THE ASSOCIATION

3.1 Membership. Each Owner shall be entitled and required to be a Member of the Association. Membership will begin immediately and automatically upon becoming an Owner and shall terminate immediately and automatically upon ceasing to be an Owner. If title to a Lot is held by more than one person, the membership appurtenant to that Lot shall be shared by all such persons in the same proportionate interest and by the same type of tenancy in which title to the Lot is held. An Owner shall be entitled to one membership for each Lot owned by him. Each membership shall be appurtenant to the Lot to which it relates and shall be transferred automatically by conveyance of that Lot. Ownership of a Lot within the Project cannot be separated from membership in the Association appurtenant thereto, and any devise, encumbrance, conveyance or other disposition of such Lot shall automatically constitute a devise, encumbrance, conveyance or other disposition of the Owner's membership in the Association and rights appurtenant thereto. No person or entity other than an Owner may be a Member of the Association and membership in the Association may not be transferred except in connection with the transfer of a Lot. The Association shall make available to the Owners, Mortgagees and the holders, insurers and guarantors of the First Mortgage on any Lot, current copies of the Declaration, Articles, Bylaws and other rules governing the Project and other books, records and financial statements of the Association. "Available" shall mean available for inspection, upon request, during normal business hours or under other reasonable circumstances.

3.2 Board of Trustees. Until such time as the responsibility for electing the Board of Trustees of the Association is turned over to the Owners, the Declarant shall have the exclusive right to appoint and remove all such Trustees. Unless relinquished earlier by Declarant, this exclusive right of the Declarant to appoint the Trustees shall terminate four (4) months after 90% of the Lots in the final phase of the Project have been conveyed by Declarant.

3.3 Votes. Each Member shall be entitled to one (1) vote for each Lot that he or she owns. In the event that there is more than one Owner of a particular Lot, the vote relating to such Lot shall be exercised as such Owners may determine among themselves. No Lot shall have more than one (1) vote, regardless of the number of persons having an ownership interest in the Lot. Any vote cast at an Association meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the vote attributable to the Lot concerned unless an objection is immediately made by another Owner of the same Lot. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists. The Declarant shall have full voting rights with respect to each Lot which it owns.

3.4 Professional Management. The Association may (but shall not be obligated to) carry out through a Manager those of its functions which are properly the subject of delegation. The Manager so engaged shall be an independent contractor and not an agent or employee of the Association, shall be responsible for managing the Project for the benefit of the Association and the Owners, and shall, to the extent permitted by law and by the terms of the agreement with the Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Association itself. Any such management agreement executed on or before the termination of Declarant control of the appointment of the Board of Trustees as described in Section 3.2 may be terminated by the Association without cause at any time after termination of such control. The above term and termination provisions shall not apply to any other types of service contracts.

3.5 Amplification. The provisions of this Section may be amplified by the Articles and the Bylaws; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners set forth in this Declaration.

ARTICLE 4

PROPERTY RIGHTS IN COMMON ELEMENTS AND LOTS

4.1 Easement for Common Elements. Each Member shall have a right and easement of use and enjoyment in and to the Common Elements. Each Owner shall have an unrestricted right of ingress or egress over and across the Common Elements. However, no Owner shall have a right of ingress or egress over the Lot of another Owner in order to access any of the Common Elements. All rights and easements over the Common Elements created herein shall be appurtenant to and shall pass with title to each Lot, and in no event shall be separated therefrom. Any Member may delegate the right and easement of use and enjoyment described herein to any family members, household guests, tenants, lessees, contract purchasers, or other persons who reside on such Member's Lot.

4.2 Limitation on Easement. A Member's right and easement of use and enjoyment of the Common Elements shall be subject to the following:

4.2.1 The right of the Board to suspend a Member's voting right in the Association and a Member's right to the use of any recreational facilities included in the Common Elements for any period during which: (i) an assessment on such Member's Lot remains unpaid; (ii) for a period not exceeding sixty (60) days for any infraction by such Member of the provisions of this Declaration or of any rule or regulation promulgated by the Association; and (iii) for successive 60-day periods if any such infraction is not corrected during any prior 60-day suspension period;

4.2.2 The right of the Association to adopt and enforce reasonable rules and regulations regarding the use and enjoyment of the Common Elements;

4.2.3 The right of the Association to dedicate or transfer all or any part of the Common Elements to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Association. No such dedication or transfer shall be effective unless an instrument signed by Members holding sixty-seven percent (67%) or more of the total votes of the Association agreeing to such dedication or transfer has been recorded;

4.2.4 The right of Utah County or any other governmental or quasi-governmental body having jurisdiction over the Property to access and rights of ingress and egress over and across any street, parking area, walkway, or open space contained within the Property for purposes of providing police and fire protection, transporting school children; and providing other governmental or municipal service.

4.3 Form for Conveyancing. Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering title to a Lot may describe the interest or estate involved substantially as follows:

Lot No. _____, THE COTTAGES AT HOBBLE CREEK, Plat "A", according to the official plat thereof, as recorded in the Office of the Utah County Recorder, TOGETHER WITH an easement of use and enjoyment in and to the common elements, including but not limited to roadways and access ways appurtenant to said Lot, as described and provided for in the Declaration of Covenants, Conditions and Restrictions of The Cottages at Hobble Creek recorded in the Office of the Utah County Recorder, and all amendments thereto.

Whether or not the description employed in any such instrument is in the above specified form, however, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot.

4.4 Transfer of Title. The Declarant agrees to cause the conveyance to the Association of title to the Common Elements free and clear of all liens (other than the lien of current general taxes and the lien of any assessments, charges, or taxes imposed by governmental or quasi-governmental authorities), before the first conveyance of a Lot from Declarant to a third-party purchaser.

4.5 Retained Easements. The Declarant hereby retains an easement over the road designated on the Plat as Whittemore Road, for ingress and egress to certain property adjacent to the Project, which is owned by Declarant and more particularly described on Exhibit "B", which is attached hereto and incorporated herein by this reference (the "Additional Land"). Declarant also hereby retains an easement over all of the Common Elements for pedestrian and vehicle access to Hobble Creek road and for the use and enjoyment of other portions of the Common Elements. Declarant has the right, pursuant to Article 12, below, to annex the Additional Land as part of the Project. Unless terminated, in whole or in part, by Declarant, the easements referred to in this Section shall be appurtenant to the Additional Land, regardless of whether the Additional Land is annexed to the Project. Such easements may be described in more detail in the deed transferring title to the Common Elements to the Association, or in a separate instrument; however, such description in a separate instrument shall not be required. Such easement rights shall be for the benefit of Declarant and subsequent owners of the Additional Land, or any portion thereof.

ARTICLE 5

ASSESSMENTS

5.1 Agreement to Pay Assessments. The Declarant for each Lot owned by it within the Project and each Owner of any Lot by the acceptance of instruments of conveyance and transfer therefor, whether or not it be so expressed in said instruments, shall be deemed to covenant and agree with each other and with the Association to pay to the Association all assessments made by the Association for the purposes provided in this Declaration. Such assessments shall be fixed, established and collected from time to time as provided in this Article V. In any event, all Lots shall be allocated the then applicable assessments beginning on the first day of the month immediately following the first conveyance of a Lot by Declarant. Notwithstanding anything contained herein to the contrary, until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the monthly assessment shall be Ten Dollars (\$ 10.00) for each Lot.

5.1.1 From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year up to fifteen percent (15%) above the maximum assessment for the previous year without the vote of the Members.

5.1.2 The Board may fix the annual assessment at an amount not in excess of the maximum amounts set forth above. The annual assessments may not be decreased without the consent and approval of the Board of County Commissioners of Utah County.

5.2 Annual Assessments. Annual assessments shall be computed and assessed against all Lots in the Project as follows:

5.2.1 Common Expense. Annual assessments shall be based upon advance estimates of the Association's cash requirements to provide for payment of all estimated expenses arising out of or connected with the maintenance and operation of the Common Elements, common utility services and any other common expenses of the Lots or the Project. Such estimated expenses may include, without limitation, the following: real property taxes and assessments on the Common Elements; premiums for all insurance that the Association is required or permitted to maintain hereunder; trash and garbage removal; repairs and maintenance of the Common Elements, including, without limitation, road maintenance and repair; snow removal; expenses of management; wages of Association employees, if any; common utility charges, including charges for utility services to the Lots to the extent not separately metered or billed; legal and accounting fees; any deficit remaining from a previous period; creation of an adequate contingency reserve, major maintenance reserve and/or sinking fund; creation of an adequate reserve fund for maintenance repairs, and replacement of those Common Elements that must be replaced on a periodic basis; and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under or by reason of this Declaration. The aggregate of all such items shall constitute the Common Expenses, and all funds received from assessments under this Section 5.2.1 shall be part of the Common Expense Fund. Two separate and distinct funds shall be created and maintained hereunder, one for operating expenses and one for reserves, which together shall constitute the Common Expense Fund.

5.2.2 Annual Budget. Annual assessments shall be determined on the basis of a fiscal year beginning January 1 and ending December 31 next following, provided the first fiscal year shall begin on the date of the conveyance of the first Lot by Declarant. On or before December 1 of each year thereafter, the Board of Trustees shall prepare and furnish to each Owner, or cause to be prepared and furnished to each Owner, an operating budget for the upcoming fiscal year. The budget shall itemize the estimated expenses of Common Expense for such fiscal year, anticipated receipts and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the annual assessment for the upcoming fiscal year and as the major guideline under which the Project shall be operated during such annual period.

5.2.3 Notice and Payment. Except with respect to the first fiscal year, the Board of Trustees shall notify each Owner in writing as to the amount of the annual assessment against his or her Lot on or before December 1 each year for the fiscal year beginning on

January 1 next following. Except as otherwise provided by the Board, each annual assessment shall be payable in twelve equal monthly installments, one such installment due on the first day of each calendar month during the fiscal year to which the assessment relates. All unpaid installments of any annual assessment shall bear interest at the rate of eighteen percent (18%) per annum, unless otherwise determined by the Board, from ten (10) days after the date each such installment became due until paid. The Board of Trustees shall also have the right to assess a late fee of up to ten percent (10%) of any assessment installment not paid within ten (10) days following the due date thereof. The failure of the Board of Trustees to give timely notice of any annual assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay such assessment or any other assessment.

5.2.4 Inadequate Funds. In the event that the Common Expense Fund proves inadequate at any time for whatever reason, including nonpayment of any Owner's assessment, the Board of Trustees may, on behalf of the Association, levy additional assessments in accordance with the procedure set forth in Section 5.3 below, except that the vote therein specified shall be unnecessary.

5.3 Special Assessments. In addition to the annual assessments authorized by this Article, the Board of Trustees may, on behalf of the Association, levy, at any time and from time to time, upon the affirmative vote of at least sixty-seven percent (67%) of the voting power of the Association in person or by proxy at a meeting called for such purpose, special assessments, payable over such periods as the Board of Trustees may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Project or any part thereof, or for any other expenses incurred or to be incurred as provided in this Declaration (including, without limitation, Common Expenses). This Section shall not be construed as an independent source of authority for the Association to incur expenses but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections or Articles hereof. Any amounts assessed pursuant hereto shall be assessed to equally to each Lot. Notice in writing of the amount of each such special assessment and the time for payment thereof shall be given promptly to the Owners; no payment shall be due less than fifteen (15) days after such notice shall have been given. All unpaid portions of any special assessment shall bear interest at the rate established by the Board not to exceed eighteen percent (18%) per annum from the date such portions become due until paid. All funds received from assessments under this Section shall be part of the Common Expense Fund. The provisions of this Section are not intended to preclude or limit the assessment, collection or use of annual assessments for the aforesaid purposes.

5.4 Uniform Rate of Assessment. The amount of any annual or special assessment against each Lot shall be allocated equally to each of the Lots. Annual assessments may be collected on a monthly basis and special assessments may be collected as specified by the Board

unless otherwise determined by the resolution of the Members of the Association approving the special assessment.

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5.5 Notice and Quorum for Any Action Authorized Under Sections 5.1.2 and 5.3.

Written notice of any meeting called for the purpose of taking any action authorized under Sections 5.1.2 or 5.3 shall be sent to all Members no less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast a majority of all the votes of Members 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 meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

5.6 Lien for Assessments. All sums assessed to Owners of any Lot within the Project pursuant to the provisions of this Article V, together with penalties and interest thereon as provided herein, shall be secured by a lien on such Lot in favor of the Association. To evidence a lien for sums assessed pursuant to this Article V, the Board of Trustees may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Lot and a description of the Lot. Such a notice shall be signed and acknowledged by a duly authorized officer of the Association and may be recorded in the office of the County Recorder of Utah County, State of Utah. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by sale or foreclosure conducted in accordance with the provisions of law applicable to the exercise of powers of sale or judicial foreclosure of deeds of trust or mortgages or in any other manner permitted by law. In order to facilitate the foreclosure of any such lien in the manner provided at law for the foreclosure of deeds of trust, Declarant hereby designates Title West Title Company as trustee, and grants and conveys the Project, IN TRUST, to Title West Title Company, as trustee, with full power of sale, to foreclose any such liens as directed by the Board of Trustees. The Board of Trustees may, at any time, designate one or more successor trustees, in the place of Title West Title Company, in accordance with provisions of Utah law for the substitution of trustees under deeds of trust. Such trustee, and any successors, shall not have any other right, title or interest in the Project beyond those rights and interests necessary and appropriate to foreclose any liens against Lots arising pursuant to this Section 5.6. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' and trustees' fees), and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any assessments against the Lot which shall become due during the period of foreclosure, and all such assessments shall be secured by the lien being foreclosed. The Board of Trustees shall have the right and power in behalf of the Association to bid in at any foreclosure sale and to hold, lease, mortgage or convey the subject Lot in the name of the Association.

5.7 Personal Obligation of Owner. The amount of any annual or special assessment against any Lot shall be the personal obligation of the Owner of such Lot to the Association. Suit

to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Elements or by abandonment of his Lot or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment of unpaid assessments hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorneys' fees.

5.8 Personal Liability of Purchaser. The personal obligation of an Owner to pay unpaid assessments against his Lot as described in Section 5.7 shall not pass to successors in title unless assumed by them. However, a lien to secure unpaid assessments shall not be affected by the sale or transfer of any Lot unless the transfer is made pursuant to the foreclosure of a First Mortgage, in which case the foreclosure will extinguish the lien for any assessments that were payable before the foreclosure sale, but shall not relieve any subsequent Owner from paying further assessments.

5.9 Reserves and Working Capital. In addition to its day-to-day working capital and operating funds, the Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Elements that the Association is obligated to maintain, repair or replace. The reserve fund shall be maintained out of regular assessments for Common Expenses.

5.10 Evidence of Payment of Annual and Special Assessments. Upon receipt of a written request by a Member or any other person, the Association within a reasonable period of time thereafter shall issue to such Member or other person a written certificate stating (a) that all annual and special assessments (including interest, costs and attorneys' fees, if any, as herein) have been paid with respect to any specified Lot as of the date of such certificate, or (b) if all annual and special assessments have not been paid, the amount of such annual and special assessments (including interest, costs and attorneys' fees, if any) due and payable as of such date. The Association may make a reasonable charge for the issuance of such certificates, which charges must be paid at the time the request for any such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matter therein stated as against any bona fide purchaser of, or Mortgagee on, the Lot in question.

ARTICLE 6

OPERATION AND MAINTENANCE

6.1 Maintenance of Lots and Homes. Each Lot and the improvements constructed thereon shall be maintained by the Owner thereof so as not to detract from the appearance of the Property and so as not to affect adversely the value or use of any other Lot. The Association shall have no obligation regarding maintenance or care of Lots.

6.2 Operation and Maintenance by Association. The Association shall provide for such maintenance and operation of the Common Elements as may be necessary or desirable to make them appropriately usable in conjunction with the Lots and to keep them clean, functional, attractive and generally in good condition and repair. The Association shall maintain and repair all roads within the Project in accordance with Utah County requirements. The Association shall provide for the removal of snow from all streets within the Project, but not from driveways or walkways on individual Lots. The Association shall provide fire protection facilities, and maintenance of the same, in accordance with Utah County requirements. The Association shall maintain all hydrants, fire equipment boxes, fuel breaks, and all other fire-fighting facilities in the Project. All necessary care and maintenance of drainage facilities within the Project shall be performed by the Association in compliance with Utah County requirements. Garbage and trash removal shall be arranged by the Association in accordance with Utah County requirements. Declarant reserves the right to transfer ownership of the Hidden Creek Water Co. to the Association at any time with the prior written consent of Utah County, but without the vote or consent of the Association. Notwithstanding the foregoing, the Association may, upon the vote of a majority of the voting power of the Association, accept responsibility for additional maintenance duties within the Project. The expenses incurred by the Association for such purposes shall be paid with funds from the Common Expense Fund.

6.3 Utilities. Each Owner shall pay for all utility services furnished to his or her Lot, except utility services which are not separately billed or metered to individual Lots by the utility or other party furnishing such service. The Association shall pay such bills which are not separately metered, such as water for, and lighting of, the Common Elements. All such expenses shall be paid by the Owners as part of the Common Expenses.

6.4 Insurance. Each Owner shall be responsible for acquiring and maintaining hazard, flood and other casualty insurance with respect to the improvements constructed on their Lot and all personal property located thereon, as required by any Mortgagee of such Lot, or otherwise deemed reasonable and prudent by such Owner. The Association shall be responsible for acquiring and maintaining hazard, flood and other casualty insurance with respect to any improvements constructed on the Common Elements. In addition, the Association shall at all times maintain in force insurance meeting the following requirements:

6.4.1 Liability Insurance. The Association shall maintain in force, and pay the premium for a policy providing comprehensive general liability insurance coverage covering all of the Common Elements, access easements, roads and rights-of-way, and all other areas of the Project that are under the Association's supervision. The coverage limits under such policy shall be in amounts generally required by private institutional mortgage investors for projects similar to the Project in construction, location, and use. Nevertheless, such coverage shall be for at least One Million Dollars (\$1,000,000) for bodily injury, including deaths of persons, and property damage arising out of a single occurrence. Coverage under such policy shall include, without limitation, legal liability of

occurrence. Coverage under such policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance, or use of the Common Elements, and legal liability arising out of lawsuits related to employment contracts of the Association. Additional coverages under such policy shall include protection against such other risks as are customarily covered with respect to projects similar to the Project in construction, location, and use. If such policy does not include "severability of interest" in its terms, the policy shall include a special endorsement to preclude an insurer's denial of any Owner's claim because of negligent acts of the Association or any other Owner. Such policy shall provide that it may not be canceled or substantially modified, by any party, without at least twenty (20) days' prior written notice to the Association and to each Mortgagee which is listed as a scheduled holder of a Mortgage in such policy.

6.4.2 Insurance Trustees and General Requirements Concerning Insurance.

Notwithstanding any of the foregoing provisions and requirements relating to insurance, there may be named as an insured on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any Insurance Trust Agreement or any successor to such trustee (each of whom shall be referred to herein as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing such insurance. Each Owner hereby appoints the Association, or any Insurance Trustee or substitute Insurance Trustee designated by the Association, as his or her attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Association, or any Insurance Trustee, shall receive, hold, or otherwise properly dispose of any proceeds of insurance in trust for the use and benefit of the Owners and their Mortgagees, as their interests may appear.

Each insurance policy maintained pursuant to the requirements of this Declaration shall be written by an insurance carrier which is licensed to transact business in the State of Utah and which has a B general policyholder's rating or a financial performance index of 6 or better in the Best's Key Rating Guide or an A or better rating from Demotech, Inc., or which is written by Lloyd's of London. No such policy shall be maintained where: (1) under the terms of the carrier's charter, bylaws, or policy, contributions may be required from, or assessments may be made against, an Owner, a Mortgagee, the Board, the Association, FNMA, or the designee of FNMA; (2) by the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders, or members; or (3) the policy includes any limiting clauses (other than insurance conditions) which could prevent the party entitled (including, without limitation, the Board, the Association, an Owner, or FNMA) from collecting insurance proceeds. The provisions of this Section 6.4.2 and of the foregoing Section 6.4.1 shall not be construed to limit the power or authority of the Association to obtain and maintain

insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Association may deem appropriate from time to time.

6.4.3 Annual Review of Policies. All insurance policies shall be reviewed at least annually by the Board in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the Project which may have been damaged or destroyed. In addition, such policies shall be reviewed to determine their compliance with the provisions of this Declaration.

ARTICLE 7

DAMAGE OR DESTRUCTION OF COMMON ELEMENTS

7.1 Association as Attorney-in-Fact. All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney in fact in their name, place and stead for the purpose of dealing with the Common Elements upon damage or destruction of the Common Elements. Acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute an appointment by said grantee of the Association as his or her attorney-in-fact as herein provided. As attorney-in-fact, the Association shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or other instrument with respect to the interest of an Owner in the Common Elements which may be necessary or appropriate to exercise the powers herein granted. All insurance proceeds with respect to policies, if any, maintained by the Association on the Common Elements shall be payable to the Association except as otherwise provided in this Declaration.

7.2 Definition of Repair and Reconstruction. Repair and reconstruction of the improvements to the Common Elements as used herein means restoring the Common Elements to substantially the same condition in which it existed prior to the damage or destruction.

7.3 Procedure. In the event all or any part of the Project is damaged or destroyed, the Association shall proceed as follows:

7.3.1 Notice to First Mortgagees. The Association shall give timely written notice to any holder of any First Mortgage on a Lot who requests such notice in writing in the event of substantial damage to or destruction of any part of the Common Elements.

7.3.2 Estimate of Costs. As soon as practicable after an event causing damage to or destruction of any part of the Common Elements, the Board shall obtain complete and reliable estimates of the costs to repair and reconstruct the part of the Common Elements damaged or destroyed.

7.3.3 Sufficient Insurance. If the proceeds of the insurance maintained by the Association equal or exceed the estimated costs to repair and reconstruct the damaged or destroyed part of the Common Elements, such repair and reconstruction shall be carried out.

7.3.4 Insufficient Insurance. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Common Elements, such repair and reconstruction shall nevertheless be carried out, unless sixty-seven percent (67%) or more of the voting power of the Association votes against making such repairs or reconstruction. The Board shall levy a special assessment sufficient to provide funds to pay the actual costs of such repair and reconstruction to the extent that such insurance proceeds are insufficient to pay such costs. Such special assessment shall be allocated and collected as provided in Section 5.3 hereof, except that the vote therein specified shall be unnecessary. Further levies may be made in like manner if the amounts collected (together with the proceeds of insurance) are insufficient to pay all actual costs of such repair and reconstruction.

7.4 Repair or Reconstruction. If the damage or destruction is to be repaired or reconstructed as provided above, the Association shall, as soon as practicable after receiving the said estimate of costs, commence and diligently pursue to completion the repair and reconstruction of that part of the Common Elements damaged or destroyed. The Board may take all necessary or appropriate action to effect repair and reconstruction, as attorney in fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith, except as otherwise expressly provided herein. The Common Elements shall be restored or repaired to substantially the same condition in which it existed prior to the damage or destruction.

7.5 Disbursement of Funds for Repair and Reconstruction. If repair or reconstruction is to occur, the insurance proceeds held by the Association and any amounts received from assessments made pursuant to Section 7.3 shall constitute a fund for the payment of costs of repair and reconstruction after casualty. The first money disbursed in payment for costs of repair and reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair and reconstruction, such balance shall be retained by the Association or distributed to the Owners equally, as determined by a vote of the Owners.

7.6 Amendment of Article. This Article VII shall not be amended unless Owners entitled to vote at least seventy-five percent (75%) of the votes of the Members consent and agree to such amendment and such consent and agreement is reflected in an instrument duly executed by the Association and recorded in accordance with the provisions of this Declaration.

CONDEMNATION

8.1 Condemnation. If at any time or times all or any part of the Common Elements shall be taken or condemned by any public authority under power of eminent domain, the provisions of this Article shall apply. A voluntary sale or conveyance of all or any part of the Common Elements in lieu of condemnation, but under threat of condemnation, shall be deemed to be a taking by power of eminent domain. If any portion of the Common Elements is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the Board of Trustees shall give prompt written notice of any such proceeding or proposed acquisition to each Owner in the Project and to any First Mortgagee who has requested in writing notice thereof. The Association shall represent the Owners in any condemnation proceedings, negotiations, settlements and agreements with the condemning authority for acquisition of the Common Elements, or any part thereof, and each Owner hereby appoints the Association as such Owner's attorney-in-fact for the purposes of such representation.

8.2 Proceeds. All compensation, damages and other proceeds from any taking by power of eminent domain of the Common Elements (hereinafter the "condemnation award") shall be made payable to the Association and shall be distributed by the Board of Trustees, on behalf of the Association as herein provided.

8.3 Complete Taking. In the event the entire Project is taken by power of eminent domain, ownership pursuant hereto shall terminate and the condemnation award shall be allocated among and distributed to the Owners and the Owners shall divide the condemnation award based upon the relative values of the Lots and improvements thereon immediately prior to the condemnation. Such distribution shall be made by check payable joint to the respective Owners and their respective Mortgagees, as appropriate.

8.4 Partial Taking. In the event less than the entire Project is taken by power of eminent domain, the following shall occur:

8.4.1 Allocation of Award. As soon as practicable, the Board of Trustees shall, on behalf of the Association, reasonably and in good faith, apportion the condemnation award between compensation, severance damages or other proceeds and shall allocate such apportioned amounts and pay the same to the Owners as follows:

- (a) The total amount apportioned to taking of or injury to the Common Elements shall be allocated among and distributed equally to all Owners.

(b) The total amount apportioned to severance damages shall be allocated among and distributed equally to the Owners of those Lots that have not been taken.

(c) The respective amounts apportioned to the taking of or injury to a particular Lot and/or the improvements thereto shall be allocated and distributed to the Owner of such Lot.

(d) The total amount apportioned to consequential damages and any other takings or injuries shall be allocated and distributed as the Association determines to be equitable under the circumstances;

(e) If apportionment or allocation is already established by negotiation, judicial decree, statute or otherwise, the Association shall employ such apportionment and allocation to the extent it is relevant and applicable;

(f) Distribution of allocated proceeds shall be made by check payable jointly to individual Owners and their respective Mortgagees, as their interests may appear; and

(g) No provision of this Article VIII or any other provision of this Declaration, the Articles or the Bylaws shall entitle the Owner of a Lot or other party to priority over any First Mortgagee holding such Lot with respect to the distribution to such Lot of the proceeds of any award, settlement or proceeds from any eminent domain or condemnation proceeding.

8.4.2 Continuation and Reorganization. If less than the entire Project is taken by power of eminent domain, ownership pursuant hereto shall not terminate but shall continue. In such event the Project shall be reorganized as follows:

(a) If any partial taking results in the taking of an entire Lot, then the Owner thereof shall cease to be a member of the Association and all voting rights shall terminate;

(b) If any partial taking results in the taking of a portion of a Lot, the voting rights appertaining to such Lot shall continue.

(c) If any partial taking results in the taking of a portion of a Lot and if there is a determination made by the Board of Trustees, after duly considering any recommendations, proposals, or other input from the Owner of such Lot, that such taking makes it impractical to use the remaining portion of such Lot, then all voting rights terminate and the

remaining portion of such Lot shall thenceforth be part of the Common Elements;

(d) The Board of Trustees, after duly considering any recommendations, proposals or other input from the Owners, shall have the duty and authority to make all determinations and to take all actions necessary or appropriate to effectuate reorganization of the Project under the provisions of this Section 8.4.2; provided, however, that if any such determination shall have been or such action take by judicial decree, the Board of Trustees shall defer thereto and proceed in accordance therewith.

8.4.3 Repair and Reconstruction. Any repair and reconstruction to the Common Elements necessitated by condemnation shall be governed by the provisions specified in Article VII hereof for cases of Damage or Destruction; provided, however, that the provisions of said article dealing with sufficiency or insufficiency or insurance proceeds shall not be applicable.

ARTICLE 9

GENERAL USE RESTRICTIONS

9.1 Rules and Regulations. The Association shall have authority to promulgate and enforce such reasonable rules, regulations and procedures as may be necessary or desirable to aid the Association in carrying out any of its functions or to insure that the Property is maintained and used in a manner consistent with the interest of the Owners.

9.2 Use of Common Elements. The Common Elements shall be used only in a manner consistent with their community nature and with the rules, regulations and use restrictions adopted by the Association. No admission fees, charges for use, leases, or other income generating arrangement of any type shall be employed or entered into with respect to any portion of the Common Elements. No buildings or structure not shown on the plat may be erected on that portion of the Common Elements designated on the Plat as floodplain area, open space or as fuel break for fire control purposes.

9.3 Use of Lots. All Lots are to be improved with single-family residences, and are restricted to such use. No more than one home may be constructed on each Lot. No Lot or home shall be used, occupied, or altered in violation of law, so as to create a nuisance or interfere with the rights of any Owner, or in any way which would result in an increase in the cost of any insurance covering any portion of the Project.

9.4 Declarant's Marketing Activities. Notwithstanding the restrictions contained in this Article 9, Declarant shall have the right to use any Lot or home owned by it, and any part of the Common Elements reasonably necessary or appropriate, in furtherance of any activities designed to accomplish or facilitate improvement and sale of all Lots owned by Declarant.

Declarant shall have the right to maintain one or more sales offices and model homes. Such offices and model homes may be located in any home owned or leased by Declarant, or in one or more separate structures or facilities placed upon the Property for the purpose of aiding the Declarant's sales efforts, or any combination of the foregoing. Declarant shall also have the right to maintain a reasonable number of promotional, advertising, or directional signs, banners, or similar devices at any place or places on the Property. Declarant shall have the right from time to time to locate or relocate any of its sales offices, model homes, signs, banners or similar devices.

9.5 Leases. Any lease agreement between an Owner and a lessee respecting a Lot or home shall be subject in all respects to the provisions of this Declaration, the Articles and Bylaws and any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All such lease agreements shall be in writing. Other than the foregoing, there is no restriction on the right of any Owner to lease his Lot or home. An Owner shall be responsible and liable for any damage to the Project caused by its tenant.

9.6 Easements. Easements for installation and maintenance of utilities are reserved as shown on the Plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage any utility equipment, interfere with the installation and maintenance thereof, or otherwise interfere with the use of such easements for the purposes for which such easements were created.

9.7 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Property and no odors shall be permitted to arise therefrom so as to render any part of the Property unsanitary or unsightly or which would be offensive or detrimental to any other part of the Property or to the occupants thereof. All weeds, grass and brush on the Lots shall be kept mown or trimmed, as appropriate, to minimize fire danger and avoid unsightly appearance. No noise or other nuisance shall be permitted to exist or operate upon any part of the Property which is offensive or detrimental to any other part of the Property, or to the occupants thereof. Without limiting the generality of any of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on the Property without the prior written approval of the Board. No Owner shall permit the use of tennis, basketball or other outdoor athletic facilities after 10:00 o'clock p.m., permit obnoxious, offensive or loud noise thereon or permit dwelling or court lighting to interfere with the quiet enjoyment of other Owners.

9.8 Animals. No animals of any kind shall be raised, bred or kept on the Property; provided, however, that up to a maximum of two (2) dogs and two (2) cats, as well as other traditional household pets (as determined by the Board in its sole and exclusive discretion), may be kept, so long as they are not kept, bred or maintained for any commercial purpose. Such animals as are permitted shall be strictly controlled and kept pursuant to the ordinances and regulations of Utah County, or other governmental agencies having jurisdiction over the Property. Each owner of such animal(s) shall be responsible to license their pets with the appropriate government agency, and obtain such vaccinations and inoculations as required by such license.

Each pet owner shall be responsible for preventing their pets from running at large, posing a danger to persons or property, trespassing on the property of another Owner, or attacking or threatening individuals or other pets or wildlife. No Owner shall allow their dog to dig or evacuate on any lawn, tree, shrub, plant, building or other property not owned by the animal's owner. The owner of an animal shall be liable for any and all damage caused by such animal. The Association shall have the right to have impounded any dog or cat running at large or outside of the control of its owner. The Board may in its sole and exclusive discretion, allow horses on designated Lots on the Project.

9.9 Temporary and Other Structures. No trailer, mobile home, basement house, tent, or other structures of a temporary nature shall be used at any time as a residence on a Lot. No old or secondhand structures shall be moved onto any Lot, it being the intention hereof that all homes erected on Lots or within the Property shall be new construction of good quality, workmanship and material.

9.10 Unightly Articles. No unsightly articles shall be permitted to remain on a Lot so as to be visible from any other Lot or the Common Elements. Without limiting the generality of the foregoing, trailers, mobile homes, trucks other than pickups, boats, tractors, vehicles other than automobiles, campers not on a truck, snowmobiles, snow removal equipment and garden or maintenance equipment shall be kept at all times, except when in actual use, in an enclosed structure or screened from view. Refuse, garbage and trash shall be kept at all times in a covered, noiseless container and any such container shall be kept within an enclosed structure or appropriately screened from view. Service areas, storage piles, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view. No lumber, grass, shrub or tree clippings or plant waste, metals, bulk materials or scrap or refuse or trash shall be kept, stored or allowed to accumulate on any Lot except within an enclosed structure or when appropriately screened from view.

9.11 No Further Subdividing. No Lot or any portion of the Common Elements may be further subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Association; provided, however, that nothing herein shall be deemed to prevent or require the approval of the Association for the transfer or sale of any Lot to more than one person to be held by them as tenants in common, joint tenants, or otherwise.

9.12 Signs. No sign of any kind shall be displayed to the public view without the approval of the Association, except such signs as may be used by Declarant in connection with the development of the Project and the sale of Lots, and except such signs of customary and reasonable dimensions as may be displayed on a Lot advertising a Lot or home for sale or lease. Display by anyone other than Declarant of any "for sale" or "for lease" sign more than three (3) feet by two (2) feet shall require the prior written approval of the Association. A residential identification sign is permitted but should not exceed one (1) square foot in surface area. Numbers on residences shall be located in a position clearly legible from the street.

9.13 No Hazardous Activities. No activities shall be conducted on the Property and no improvements constructed on the Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon the Property and no open fires or incinerators shall be lighted or permitted on the Property except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed interior fireplace. Hunting within the Property is strictly prohibited.

9.14 Repair of Buildings. No improvement upon the Property shall be permitted to fall into disrepair, and each such improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the Owner thereof or the Association as applicable.

9.15 Improvements and Alterations. There shall be no excavation, construction or alteration which in any way alters the exterior appearance of any improvement within the Property nor removal of any home or other improvement within the Property (other than repairs or rebuilding) without the prior approval of the Board.

9.16 Antennas. No television, ham radio, citizens band or radio antenna, satellite reception dish larger than three (3) feet in diameter, or other similar electronic receiving or sending device shall be permitted upon the rooftop or side of any home or elsewhere if exposed to view from any other Lot. Any satellite dish smaller than three (3) feet in diameter must be located on the rear of the dwelling, where it is not visible from the street. In no case will any receiving or sending antenna or other device be allowed to interfere with the peace and quiet enjoyment of any neighboring Owner's premises or home entertainment facilities or equipment. Provided, however, Declarant and the Association reserve the right and option to install cable service lines and antennas as needed throughout the Project in connection with its development.

9.17 Residential Use. No Lot or the improvements thereon may be occupied or used for any purpose other than as a private residence; provided however, that a portion of a dwelling may be used to conduct a business or profession if: (1) such use is approved by all appropriate governmental and quasi-governmental bodies having jurisdiction over such matter; (2) such use is approved by the Board; and (3) such use is approved by the Declarant so long as Declarant owns any property in the Project.

9.18 Preservation of Common Elements. No person shall alter, construct or remove anything on or from the Common Elements, except with the prior written consent or instructions of the Board.

9.19 Parking. In addition to the parking provided in enclosed garages, each Lot shall contain adequate parking space for at least two (2) standard size vehicles, to be utilized by the guests and invitees of the Owner. No person shall park any automobile or other motor vehicle on

the Common Elements, including any of the roads within the Project, except in areas specifically designated on the Plat or by the Association for parking purposes.

9.20 Trees. No person shall cut any living tree on any Lot in excess of one inch in diameter without the prior written consent of the Architectural Control Committee. All dead trees and debris must be removed from each Lot, at the Owner's sole expense, prior to the issuance by Utah County of a Certificate of Occupancy for a residential dwelling constructed thereon. Each Lot upon which a residential dwelling is constructed on shall have planted thereon, at the Owner's sole expense, a minimum required number of trees, each of which shall be at least two (2) inches in diameter. The location, number and type of such trees shall be determined by the Committee as outlined in the design guidelines. An Owner may, if approved by the Committee in its sole discretion, satisfy such requirement with existing trees. The installation of the above required trees shall be completed no later than 12 months after purchase of the Lot by the new Owner.

9.21 Fencing. The types and locations of fencing on the Lots shall be determined by the Architectural Control Committee as outlined in the design guidelines.

9.22 Stoves and Fireplaces. All wood and/or coal burning stoves installed in any improvement constructed on the Property shall meet or exceed pollution control standards established by the United States Environmental Protection Agency, and any other applicable laws, ordinances or regulations.

9.23 Irrigation Systems. All landscape irrigation systems installed on a Lot shall be underground and shall contain automatic time-control devices.

9.24 Time Limit for Construction of Residential Dwelling. All residential dwellings shall be fully constructed, completed and fully landscaped within 18 months of the issuance of the building permit therefor.

9.25 Maintenance of Septic Tanks. Each Owner of a Lot shall be responsible for maintaining any septic tank installed on such Lot by making a visual and probing inspection of the tank after each 500,000 gallons of use to determine whether the tank needs to be pumped. All Owners shall be responsible to meet the requirements of the Springville City Watershed Protection Ordinance, but in any event shall cause their septic tanks to be pumped at least every three years. All Owners are encouraged to use biodegradable detergents, soaps and other materials which are released into the septic tank. No toxic or hazardous wastes shall be dumped, disposed or otherwise released anywhere in the Project. Without limiting the foregoing, no gasoline, diesel fuel, motor oil, or petroleum products shall be dumped or disposed of within the Project, including septic systems.

9.26 Use of Recreational Vehicles. Motorized recreational vehicles, such as ATVs, motorcycles (except in the case of motorcycles licensed for street use), snowmobiles, etc. shall only be operated on the Lot of the owner of such vehicles, as well as the roads in the Project, and

any other trails or other areas designated for such use by the Board. In any case, no off-road motorized vehicles shall be used anywhere within the Project after 10:00 p.m.

9.27 Open Fire Burn Policy. Open fires are permitted only in approved fire rings or pits. All fires must be closely monitored by a responsible adult with adequate resources immediately available to put the fire out quickly. No fires are permitted which pose a threat to the property of others or which produce offensive odors or smoke. The burning of wet trash or garbage is prohibited. Open fire pits must be approved by the Committee; and, except in burn areas approved by the Committee, fire debris must be buried or removed within seven (7) days. Any burning shall comply with all applicable laws, ordinances and regulations, as well as any rules or regulations adopted by the Board. In the event of any damage or injury resulting from a fire started on the Property, the Owner or guest starting such fire shall be liable for all damages resulting therefrom, and the Association shall have no liability for such damage, regardless of whether such fire was started on a Lot or on a portion of the Common Elements.

9.28 Trash and Refuse. All trash, garbage and other waste shall be kept in sanitary containers. All rubbish, trash and garbage shall be regularly removed from the Property, and shall not be allowed to accumulate thereon. Each dwelling constructed in the Project shall contain a trash compactor. All refuse containers, woodpiles, storage areas, machinery and equipment shall be obscured from view of adjoining Lots and streets by a fence or other appropriate screen approved by the Committee.

9.29 Propane Tanks. No Owner shall allow any bulk storage propane tank associated with the permanent utility system of the dwelling to be kept above ground. Bulk storage propane tanks associated with any permanent utility system on a Lot shall be buried at the time of installation of the utility system it services.

9.30 Water and Sewage Systems. No Lot or improvement thereon shall be used for human occupancy, either temporarily or permanently, until culinary water and sewage and waste disposal facilities approved by Utah County are provided and available for use on such Lot, and no Lot or improvement thereon shall be used for human occupancy at any time the culinary water or sewage and waste disposal facilities are not in compliance with the statutes of the State of Utah, ordinances of Utah County, and all rules and regulations promulgated thereunder.

9.31 Mining and Drilling. No oil drilling, oil development operations, off refining, quarrying or mining operations of any kind shall be permitted on the Property, nor shall any oil wells, tanks or other drilling or mining equipment be brought or stored on the Property. No derrick or other structure designed for boring for water, oil or natural gas shall be erected, maintained or permitted upon any Lot except by Declarant, its successors or assigns, for the benefit of the Association.

9.32 General Obligations. Each Owner shall enjoy and be subject to all rights and duties assigned to Owners pursuant to this Declaration. Except as otherwise provided herein, the

Declarant shall enjoy the same rights and assumes the same duties with respect to each unsold Lot.

ARTICLE 10

ARCHITECTURAL AND LANDSCAPING DESIGN CONTROL

10.1 Architectural Control Committee. The Architectural Control Committee shall consist of three (3) members, formed as follows:

(a) The Declarant shall appoint all of the original members and all replacements until over 95% of all Lots have dwellings constructed thereon, or such earlier date as Declarant shall elect. Thereafter, the Board shall appoint all of the members of the Committee.

(b) Members appointed to the Committee by the Board shall be Members of the Association. Members appointed to the Committee by the Declarant need not be Members of the Association.

(c) One of the initial members of the Committee shall be appointed for a term of one (1) year; one of the initial members of the Committee shall be appointed for a term of two (2) years; and the final member of the initial Committee shall be appointed for a term of three (3) years. Thereafter, members shall each serve three-year terms, with the term of one member of the Committee expiring each year.

10.2 Dwelling Quality and Size. The style of architecture and all exterior surfaces and the proportions of those surfaces as well as set-back locations on front, rear and side Lot lines shall be approved by the Committee, shall comply with the minimum requirements of the Utah County zoning ordinance and shall conform to the Design Criteria prepared by Declarant. All exterior surfaces shall meet the requirements of the Urban Interface Fire Code. No pre-fabricated dwellings or mobile homes shall be allowed in the Project. The ground floor area of any dwelling constructed on a Lot (the footprint), exclusive of garages and open porches, shall not be less than 2500 square feet (not including basement area). All two-story homes shall have at least 3,200 square feet of total living space, exclusive of garage and open porches. All dwellings shall have an enclosed garage with automated doors approved by the Committee with an area not less than 576 square feet (the footprint) to accommodate at least two vehicles. All dwellings shall have an antegarage area which shall be hardsurfaced with an area not less than 576 square feet which area shall connect to a hardsurfaced driveway having a minimum width of at least 14 feet. Each lot shall provide at least two outside parking spaces which shall be hardsurfaced with an area of not less than 528 square feet. The Committee may in its absolute discretion, place a limit on the size of a dwelling. All swimming pools or structures containing water shall be fenced in accordance with national standards for such pools or structures. Any general contractor hired to construct a residential dwelling shall be duly licensed by the State of Utah.

in accordance with national standards for such pools or structures. Any general contractor hired to construct a residential dwelling shall be duly licensed by the State of Utah.

10.3 Review of Plans and Specifications.

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(a) The Architectural Control Committee shall consider and act upon any and all plans and specifications submitted for its approval pursuant to the terms of this Declaration and shall perform such other duties as are specified in this Declaration or may from time to time be assigned to it by the Board. No construction, alteration, grading, addition, excavation, modification, decoration, redecoration or reconstructing of an Improvement or removal of any tree in the Project shall be commenced or maintained by any Owner until the plans and specification showing the nature, kind, shape, height, width, color, materials and location of the same have been submitted to, and approved in writing by, the Committee. The Architectural Control Committee shall approve plans and specifications submitted for its approval only if it determines that: (a) the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area or the Project as a whole, (b) the appearance of any structure affected thereby will be in harmony with other structures in the vicinity, (c) the construction will not detract from the beauty and attractiveness of the Property or the enjoyment thereof by the Owners, (d) the construction will not substantially interfere with existing views from the dwellings constructed on other Lots, and (e) the upkeep and maintenance will not become a burden on the Association.

(b) The Architectural Control Committee may condition its approval of plans and specification for any improvement upon any one or more of the following conditions: (1) the applicant agreeing to such changes in the plans and specifications as the Committee deems appropriate; (2) the agreement of the applicant to replace any removed trees as may be designated by the Architectural Control Committee; (3) the agreement of the applicant to submit "as-built" record drawings certified by a licensed architect or engineer which describe the improvements in detail as actually constructed upon the Lot; and (4) such other conditions as the Committee may reasonable determine to be prudent and in the best interests of the Association. The Architectural Control Committee may further require submission of additional plans and specifications or other information prior to approving or disapproving material submitted. The Architectural Control Committee may also establish reasonable rules and guidelines setting forth procedures for the submission of plans for approval, requiring a fee to accompany each application for approval, or stating additional factors to be taken into consideration in reviewing submissions. The Architectural Control Committee may provide that the amount of any fees required shall be uniform, or determined in any other reasonable manner, such as based upon the reasonable cost of the architectural or other professional fees incurred by the Committee in reviewing plans and specifications. Any Owner aggrieved by a decision of the Architectural Control Committee may appeal the decision to the Board in accordance with the procedures to be established by the Board.

(c) The Architectural Control Committee may require such detail in plans and specifications submitted for its review as it deems proper, including without limitation, floor plans, site plans, drainage plans, landscaping plans, elevation drawings and descriptions or samples of exterior material and colors. A complete landscape plan must be submitted with the plans and specifications of any proposed residential dwelling. Any application submitted shall be deemed approved, unless written disapproval or a request for further information or materials shall have been transmitted to the applicant within thirty (30) days after the date of receipt by the Architectural Control Committee of all required materials. Declarant need not seek approval of the Committee with respect to their activities expect for activities which take place after the transfer of title from Declarant for the last Lot in the Project.

10.4 Meetings of the Architectural Control Committee. The Architectural Control Committee shall meet from time to time as necessary to perform its duties, and may from time to time, by resolution unanimously adopted in writing, designate a member the Committee as its representative to take any action or perform any duties for and on behalf of the Committee. In the absence of such designation, the vote of a majority of the members of the Architectural Control Committee taken without a meeting, shall constitute the act of the Architectural Control Committee.

10.5 No Waiver of Future Approvals. The approval of the Architectural Control Committee of any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the approval and consent of the Architectural Control Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval or consent.

10.6 Correction of Defects. The Committee shall have the right to inspect the construction of improvements on Lots, and to require the correction of defects as follows:

(a) Such right of inspection shall continue throughout the period of construction on each Lot, and shall terminate sixty (60) days after receipt by the Committee of written notice from the Owner of the Lot that the improvements being constructed thereon have been completed. If, as a result of such inspection, the Committee finds that such improvements were done without obtaining approval of the plans and specifications therefor, or were not done in substantial compliance with plans and specifications approved by the Committee it shall, within sixty (60) days of the inspection, notify the Owner in writing of his or her failure to comply with this Article 10, specifying the particulars of non-compliance. The Architectural Control Committee shall have the authority to require the Owner to take such action as maybe necessary to remedy the non-compliance.

(b) If, upon the expiration of sixty (60) days form the date of such notification, the Owner has failed to remedy such non-compliance, the Committee shall notify the Board in writing of such failure. Upon notice and hearing, the Board shall determine whether there is a non-

compliance and, if so, the nature thereof and may direct the Owner to correct any non-compliance within a period of not more than forty-five (45) days (or such other period as the Board shall reasonably determine to be necessary) from the date that notice of the Board's ruling is given to the Owner. If the Owner does not comply with the Board's ruling within such period, the Board, at its option, may record a notice of non-compliance and may peacefully remedy the non-compliance. In such event, the Owner shall reimburse the Association, upon demand, for all expenses incurred in correcting the non-compliance. If the Owner does not promptly repay such expenses to the Association, the Board shall levy a special assessment against such Owner and his Lot for reimbursement of such expenses. The right of the Association to remove a non-complying improvement or to otherwise remedy the non-compliance shall be in addition to all other rights and remedies which the Association may have at law, in equity, or in this Declaration.

(d) If for any reason the Architectural Control Committee fails to notify an Owner of any non-compliance with previously submitted and approved plans and specifications within sixty (60) days after receipt of written notice of completion from the Owner, the improvements shall be deemed to have been constructed in accordance such approval.

10.7 Scope of Review. The Architectural Control Committee shall review and approve or disapprove all proposals and plans and specifications submitted to it for any proposed Improvement, alteration or addition, solely on the basis of the considerations set forth in Sections 10.2 and 10.3 of this Article. The Committee shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any proposal, plan or design from the standpoint of structural safety or conformance with building, fire or other codes.

10.8 Committee Exemption from Liability. The Architectural Control Committee's approval of proposals, plans and specifications shall not constitute a representation, warranty or guarantee, whether express or implied, that such proposals, plans or specification comply with good engineering design or with zoning or building ordinances, or other governmental regulations or restrictions. By approving such proposals, plans or specifications neither the Committee, the members thereof, the Association, the Board of Directors nor Declarant assumes any liability or responsibility therefor, or for any defect in the structure constructed from such proposals, plans or specification, nor shall Declarant be liable to any Owner, occupant, or other person or entity for any damage, loss, or prejudice suffered or claimed on account of: (a) the approval or disapproval of any proposals, plans, and specifications and drawings, whether or not defective, or (b) the construction or performance of any work whether or not pursuant to the approved proposals, plans and specifications and drawings.

10.9 Variances. When circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration may require it, the Architectural Control Committee may authorize variances from compliance with any of the architectural provisions of this Declaration, including, without limitation, restrictions upon height, size, floor area or placement of structures, or similar restrictions. Such variances must be evidenced in writing, and must be signed by at least a majority of the members of the Committee. If such variances are granted, no violation of

the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall it in any way affect the Owner's obligation to comply with all governmental laws and regulations affecting his use of the premises, including but not limited to zoning ordinances and lot set-back lines or requirements imposed by Utah County or any or other public authority having jurisdiction over the property. The granting of a variance shall not be deemed to be approval from the standpoint of compliance with such laws or regulations, nor from the standpoint of structural safety, and the Architectural Control Committee shall not be liable for any damage to an Owner as a result of its granting or denying of a variance.

10.10 Declarant Exemption. The Architectural Control Committee shall have no authority, power or jurisdiction over Lots owned by Declarant, and the provisions of this Article 10 shall not apply to Lots owned by Declarant until such time as Declarant conveys title to the Lot to a purchaser thereof. This Article shall not be amended without Declarant's written consent set forth on the amendment.

ARTICLE 11

MORTGAGEE PROTECTION

11.1 Notice of Action. Upon written request made to the Association by a First Mortgagee, or an insurer or governmental guarantor of a First Mortgage, which written request shall identify the name and address of such First Mortgagee, insurer or governmental guarantor and Lot number or address, any such First Mortgagee, insurer or governmental guarantor shall be entitled to timely written notice of:

- (a) Any condemnation loss or any casualty loss which affects a material portion of the Project or any Lot on which there is a First Mortgage held, insured or guaranteed by such First Mortgagee, insurer or governmental guarantor;
- (b) Any delinquency in the payment of assessments or charges owed by an Owner, whose Lot is subject to a First Mortgage held, insured or guaranteed by such First Mortgagee, insurer or governmental guarantor, which default remains uncured for a period of sixty (60) days;
- (c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and
- (d) Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified in Section 2 below or elsewhere herein.

11.2 Matters Requiring Prior Eligible Mortgagee Approval. Except as provided elsewhere in this Declaration, the prior written consent of Owners entitled to vote at least sixty-seven percent (67%) of the votes of the Lots in the Association (unless pursuant to a specific provision of this Declaration the consent of Owners entitled to vote a greater percentage of the votes in the Association is required, in which case such specific provisions shall control), and Eligible Mortgagees holding First Mortgages on Lots having at least fifty-one percent (51%) of the votes of the Lots subject to First Mortgages held by Eligible Mortgagees shall be required to:

- (a) Abandon or terminate the legal status of the Project after substantial destruction or condemnation occurs.
- (b) Add or amend any material provision of the Declaration, Articles, Bylaws or Plat, which establishes, provides for, governs or regulates any of the following (an addition or amendment to such documents shall not be considered material if it is for the purpose of correcting technical errors or for clarification only):
 - (i) voting rights;
 - (ii) assessment liens, or the priority of assessment liens;
 - (iii) responsibility for maintenance and repairs;
 - (iv) reallocation of interests in the Common Elements, or rights to their use;
 - (v) redefinition of any Lot boundaries (provided, however, that consent or approval need only be obtained from Owners and First Mortgagees of the Lots whose boundaries are being modified);
 - (vi) the withdrawal of property from the Project;
 - (vii) hazard or fidelity insurance requirements;
 - (viii) imposition of any restrictions on the leasing Lots and homes;
 - (ix) imposition of any restrictions on Owner's right to sell or transfer his or her Lot or;
 - (x) restoration or repair of the Project (after damage or partial condemnation) in a manner other than that specified in the Declaration; or
 - (xi) any provisions that expressly benefit Mortgagees, insurers, or guarantors.

Any Mortgagee, insurer or governmental guarantor who receives a written request from the Association to approve additions or amendments to the constituent documents and who fails to deliver or post to the Association a negative response within thirty (30) days shall be deemed to have approved such request, provided the written request was delivered by certified or registered mail, with a "return receipt" requested.

11.3 Availability of Project Documents and Financial Statements. The Association shall maintain and have current copies of the Declaration, Articles, Bylaws, and other rules concerning the Project as well as its own books, records, and financial statements available for inspection by Owners or by holders, insurers, and guarantors of First Mortgages that are secured by Lots in the Project. Generally, these documents shall be available during normal business hours.

The Association shall make a financial statement for the preceding fiscal year (if the Project has been established for a full fiscal year) available to the holder, insurer, or guarantor of any First Mortgage on submission of a written request for it. The financial statement, which need not be audited, shall be made available within 120 days of the Association's fiscal year-end.

11.4 Subordination of Lien. The lien or claim against a Lot for unpaid assessments or charges levied by the Association pursuant to this Declaration shall be subordinate to the First Mortgage affecting such Lot if the First Mortgage was recorded before the delinquent assessment was due, and the First Mortgagee thereunder which comes into possession of or which obtains title to the Lot shall take the same free of such lien or claim for unpaid assessment or charges, but only to the extent of assessments or charges which accrue prior to foreclosure of the First Mortgage, exercise of a power of sale available thereunder, or taking of a deed or assignment in lieu of foreclosure. No assessment, charge, lien, or claim which is described in the preceding sentence as being subordinate to a First Mortgage or as not to burden a First Mortgagee which comes into possession or which obtains title shall be collected or enforced by the Association from or against a First Mortgagee, a successor in title to a First Mortgagee, or the Lot affected or previously affected by the First Mortgage concerned.

11.5 Payment of Taxes. In the event any taxes or other charges which may or have become a lien on the Common Elements are not timely paid, any Mortgagee or any combination of Mortgagees may jointly or singly, pay such taxes. Any Mortgagee which expends funds for any of such purposes shall be entitled to immediate reimbursement therefor from the Association.

11.6 Priority. No provision of this Declaration or the Articles gives or may give an Owner or any other party priority over any rights of Mortgagees pursuant to their respective Mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for loss to or taking of all or any part of the Lots or the Common Elements.

OPTION TO EXPAND

12.1 Project Phasing. It is anticipated that the Project will be developed in a series of phases. Accordingly, Declarant hereby reserves the option to expand the Project (the "Option to Expand") upon the terms and provisions set forth in this Article without the prior consent of the Owners or the Association. Each Option to Expand must be exercised within seven (7) years after recordation of this Declaration or the recording of the amendment thereto effectuating the most recent exercise of the Option to Expand. The terms and conditions of the option to expand shall be as follows:

12.1.1 The real property subject to the Option to Expand consists of the real property sometimes hereinafter referred to as "the Additional Land," being more particularly described in Exhibit "B", which is attached hereto and incorporated herein by this reference.

12.1.2 The Option to Expand may be exercised at different times as to the various parcels comprising the Additional Land, or portions thereof, and in any order elected by the Declarant. No assurance is made with regard to which portions of the Additional Land, if any, will be added to the Project or the order in which such portions will be so expanded. In the event the Option to Expand is exercised with respect to a portion of the Additional Land, the Option to Expand may subsequently be exercised with respect to any other portion of the Additional Land.

12.1.3 Declarant shall not be restricted in the location, size or number of Lots that may be created on the Additional Land, except as may be required by applicable zoning requirements, ordinances or regulations.

12.1.4 Any Lots to be created on the Additional Land shall be subject to the same uses and restrictions as provided in Article 9, and elsewhere herein. Only those portions of the Additional Land which are added to the Project pursuant to the exercise of the Option to Expand, the Additional Land shall be subject to any of the limitations, restrictions or covenants of this Declaration.

12.1.5 Further improvements to the Additional Land which is added to the Project may include Lots, roads, recreational improvements and other Common Elements, at Declarant's sole discretion.

12.1.6 Each Owner, by execution of a contract for deed or the acceptance of a deed to a Lot in the Project, shall be deemed to have consented to all provisions of this Article, including the procedure for adjustment of Unit votes and assessment percentages pursuant to Section 12.1.7 hereof. After the filing for record of any amended Exhibit "A" to this Declaration and an additional or amended Plat reflecting Declarant's exercise of the Option to

Expand, the number of votes in the Association shall automatically be increased to equal the total number of Lots in the Project, as expanded. Each Lot shall continue to have one (1) vote in the Association. Similarly, following each exercise of the Option to Expand each Owner's share of the annual and special assessments levied pursuant to Article 5 shall be amended consistent with the provisions of Article 5. The obligation to pay assessments shall begin as to each Lot in an added phase of the Project upon the conveyance of the first Lot in such phase from Declarant.

12.1.7 Declarant shall not be required to obtain the consent of any Owners or of any other person or entity having any right or interest in all or any portion of the Project prior to or subsequent to adding all or portions of the Additional Land.

12.1.8 No provision of this Article 12 shall be amended without the prior written consent of Declarant.

ARTICLE 13

MISCELLANEOUS

13.1 Notices. Any notice required or permitted to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly furnished if mailed postage prepaid to the person who appears as an Owner, at the latest address for such person, appearing in the records of the Association at the time of mailing.

13.2 Term. This Declaration shall be effective upon the date of recordation hereof and, as amended from time to time, shall continue in full force and effect for a term of forty (40) years from the date this Declaration is recorded. From and after said date, this Declaration, as amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by seventy-five percent (75%) of the votes of the Owners cast at an election held for such purpose or otherwise approved in writing by such Owners within six (6) months prior to the expiration of the initial effective period hereof or any ten (10) year extension.

13.3 Amendment. Except as provided elsewhere in this Declaration, any amendment to this Declaration shall require the affirmative vote or written approval of at least sixty-seven percent (67%) of the total votes of the Association. Any amendment authorized pursuant to this Section shall be accomplished through the recordation in the office of the Utah County Recorder of an instrument executed by the Association. In such instrument an officer or Trustee of the Association shall certify that the vote required by this Section for amendment has occurred. Anything in this Article or Declaration to the contrary notwithstanding, Declarant reserves the unilateral right (but not the obligation) to amend all or any part of this Declaration to such extent and with such language as may be requested by FNMA, any other federal, state or local

governmental agency which requests such an amendment as a condition precedent to such agency's approval of the Declaration, or by any lending institution as a condition precedent to lending funds upon the security of any Lot or any portions thereof. Any such amendment shall be effected by the recordation by Declarant of an amendment duly signed by the Declarant with its signature acknowledged, specifying the federal, state or local governmental agency or lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. Recordation of such an amendment shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such amendment, when recorded, shall be binding upon all of the Project and all persons having an interest therein. Declarant also reserves the unilateral right to amend this Declaration to correct clerical or other inadvertent errors herein. It is the desire of Declarant to retain control of the Association and its activities during the anticipated period of planning, development and marketing. If any amendment requested pursuant to the provisions of this Section deletes, diminishes or alters such control, Declarant alone shall have the right to amend this Declaration to restore such control. The Declarant may unilaterally amend or terminate this Declaration prior to the closing of the first sale of a Lot.

13.4 Rights of Action. The Association and any aggrieved Owner shall have a right of action against Owners who fail to comply with the provisions of the Declaration or the decisions of the Association. Owners shall have a similar right of action against the Association. In the event of a failure by the Association to enforce the covenants, conditions and restrictions of this Declaration following at least thirty (30) days prior written notice to the Association of such failure, Utah County may, in its discretion, cause suit to be brought against the Association for the purpose of requiring it to enforce the provisions of this Declaration, or Utah County may, in its discretion, initiate and prosecute a suit in the name of the Association for the purpose of enforcing the provisions of the Declaration. The Association shall indemnify and hold the County harmless from all costs, expenses (including attorneys' fees) and liabilities resulting from any such action taken by Utah County in accordance with this Section 13.4.

13.5 Declarant's Rights Assignable. The rights of Declarant under this Declaration or in any way relating to the Property may be assigned, whereupon the assignee of Declarant shall have all the rights of Declarant hereunder.

13.6 Interpretation. The captions which precede the Articles and Sections of this Declaration are for convenience only and in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder thereof. This Declaration shall be liberally construed to effect all of its purposes.

13.7 Covenants to Run With Land. This Declaration and all of the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be

binding upon and shall inure to the benefit of Declarant, all parties who hereafter acquire any interest in a Lot or in the Common Elements, and their respective grantees, transferees, heirs, devisees, personal representatives, successors and assigns. Each Owner or occupant of a Lot shall comply with, and all interests in all Lots or in the Common Elements shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments and determinations contemplated by this Declaration. By acquiring any interest in a Lot or in the Common Elements, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

13.8 Lists of Owners and Eligible Mortgagees. The Board shall maintain up-to-date records showing: (i) the name of each person who is an Owner, the address of such person, and the Lot which is owned by him; (ii) the name of each person or entity who is an Eligible Mortgagee, the address of such person or entity and the Lot which is encumbered by the Mortgage held by such person or entity; and (iii) the name of each person or entity who is an insurer or governmental guarantor, the address of such person or entity, and the Lot which is encumbered by the Mortgage insured or guaranteed by such person or entity. In the event of any transfer of a fee or undivided fee interest in a Lot, either the transferor or transferee shall furnish the Board with evidence establishing that the transfer has occurred and that the Deed or other instrument accomplishing the transfer is of record in the office of the County Recorder of Utah County, Utah. The Board may for all purposes act and rely on the information concerning Owners and Lot ownership which is thus acquired by it or, at its option, the Board may act and rely on current ownership information respecting any Lot or Lots which is obtained from the office of the County Recorder of Utah County, Utah. The address of an Owner shall be deemed to be the address of the Lot owned by such person unless the Board is otherwise advised.

13.9 Maintenance and Open Space Preservation Agreement. That certain Maintenance and Open Space Preservation Agreement (the "Preservation Agreement") among Declarant, the Association, and Utah County, which Agreement is being recorded concurrently herewith in the Office of the Utah County Recorder, is, by this reference, incorporated herein and made a part hereof. Notwithstanding anything contained herein to the contrary, in event of any conflict between the terms of this Declaration and the Preservation Agreement, the terms and provisions of the Preservation Agreement shall control. Notwithstanding anything contained herein to the contrary, this Declaration cannot be amended without the written consent of Utah County.

13.10 Effective Date. This Declaration and any amendment or supplement hereto shall take effect upon its being filed for record in the office of the County Recorder of Utah County, Utah.

T&M DEVELOPMENT, L.C., a Utah limited liability company

By: Tracy Macdonald
Its: Managing Member

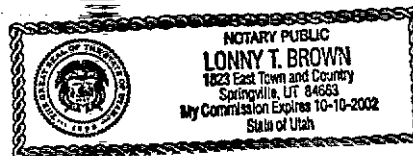
STATE OF UTAH)
 : ss.
COUNTY OF UTAH)

The foregoing instrument was acknowledged before me this 29th day of NOV 1999 by Tracy Macdonald, the managing member of T&M Development, L.C., a Utah limited liability company.

Lonny T. Brown
NOTARY PUBLIC
Residing at: Springville, ut.

My Commission Expires:

10-10-2002



Commencing at a point located North 02° 47' 53" East along the Section line 1828.94 feet from the Southwest corner of Section 3, Township 7 South, Range 4 East, Salt Lake Base and Meridian; thence North 02° 47' 53" East 880.36 feet; thence North 02° 16' 00" West 396.83 feet; thence South 29° 47' 00" East 3114.41 feet; thence South 63° 00' 00" West 334.63 feet; thence South 20° 22' 48" East 529.67 feet; thence South 06° 45' 24" East 309.67 feet; thence South 19° 57' 37" East 107.58 feet; thence South 06° 45' 55" East 191.43 feet; thence South 34° 58' 07" East 226.07 feet; thence South 39° 46' 05" East 288.74 feet; thence South 51° 43' 03" East 132.17 feet; thence South 28° 41' 10" East 59.75 feet; thence South 53° 03' 16" East 236.27 feet; thence South 78° 55' 45" East 24.56 feet; thence South 87° 43' 35" East 75.89 feet; thence South 58° 34' 14" East 214.49 feet; thence South 04° 15' 24" West 110.67 feet; thence along the arc of a 341.00 foot radius curve to the right 27.43 feet (chord bears North 60° 55' 50" East 27.42 feet); thence North 63° 14' 06" East 109.50 feet; thence along the arc of a 241.00 foot radius curve to the right 29.98 feet (chord bears North 66° 47' 55" East 29.96 feet); thence South 24° 54' 28" East 56.31 feet; thence along the arc of a 185.00 foot radius curve to the left 28.19 feet (chord bears South 67° 35' 59" West 28.16 feet); thence South 63° 14' 06" West 109.50 feet; thence along the arc of a 285.00 foot radius curve to the left 92.80 feet (chord bears South 53° 54' 24" West 92.39 feet); thence South 14° 40' 04" West 497.30 feet; thence North 89° 36' 27" West 295.42 feet; thence South 63° 39' 24" West 84.36 feet; thence South 54° 31' 14" West 127.72 feet; thence South 79° 30' 21" West 88.09 feet; thence South 66° 42' 47" West 198.61 feet; thence South 63° 34' 06" West 203.12 feet; thence South 56° 55' 26" West 272.12 feet; thence North 29° 20' 44" West 320.68 feet; thence North 23° 58' 58" East 156.65 feet; thence South 55° 22' 05" West 37.94 feet; thence along the arc of a 122.00 foot radius curve to the left 120.60 feet (chord bears South 27° 07' 22" West 115.75 feet); thence South 01° 11' 42" East 75.24 feet; thence along the arc of a 527.98 foot radius curve to the right 66.93 feet (chord bears South 02° 26' 12" West 66.89 feet); thence South 06° 04' 06" West 105.88 feet; thence along the arc of a 472.08 foot radius curve to the left 61.29 feet (chord bears South 02° 20' 55" West 61.25 feet); thence South 01° 22' 15" East 123.83 feet; thence along the arc of a 528.00 foot radius curve to the right 151.23 feet (chord bears South 06° 50' 02" West 150.71 feet); thence South 15° 02' 20" West 123.80 feet; thence along the arc of a 178.00 foot radius curve to the right 118.66 feet (chord bears South 34° 08' 10" West 116.47 feet); thence South 53° 14' 00" West 160.25 feet; thence along the arc of a 122.00 foot radius curve to the left 137.13 feet (chord bears South 21° 06' 20" West 130.02 feet); thence South 11° 02' 51" East 125.88 feet; thence along the arc of a 124.00 foot radius curve to the left 42.10 feet (chord bears South 20° 46' 25" East 41.90 feet); thence South 30° 30' 00" East 83.26 feet; thence South 60° 15' 02" West 39.94 feet; thence along the arc of a 597.28 foot radius curve to the left 16.06 feet (chord bears South 59° 56' 14" West 16.06 feet); thence North 30° 30' 00" West 82.62 feet; thence along the arc of a 180.00 foot radius curve to the right 61.11 feet (chord bears North 20° 46' 25" West 60.82 feet); thence North 11° 02' 51" West 125.83 feet; thence along the arc of a 178.00 foot radius curve to the right 200.07 feet (chord bears North 21° 06' 20" East 189.70 feet); thence North 53° 14' 00" East 160.17 feet; thence along the arc of a 122.00 foot radius curve to the left 81.33 feet (chord bears North 34° 08' 10" East 79.83 feet); thence North 15° 02' 20" East 123.80 feet; thence along the arc of a 472.00 foot radius curve to the left 135.19 feet (chord bears North 06° 50' 02" East 134.72 feet); thence North 01° 22' 15" West 123.83 feet; thence along the arc of a 528.08 foot radius curve to the right 68.56 feet (chord bears North 02° 20' 55" East 68.52 feet); thence North 06° 04' 06" East 105.88 feet; thence along the arc of a 471.98 foot radius curve to the left 59.83 feet (chord bears North 02° 26' 12" East 59.79 feet); thence North 01° 11' 42" West 75.24 feet; thence along the arc of a 178.00 foot radius curve to the right 175.95 feet (chord bears North 27° 07' 22" East 168.87 feet); thence North 55° 22' 05" East 107.48 feet; thence

along the arc of a 222.00 foot radius curve to the left 52.76 feet (chord bears North $48^{\circ} 33' 36''$ East 52.63 feet); thence along the arc of a 35.00 foot radius curve to the left 30.73 feet (chord bears North $16^{\circ} 36' 06''$ East 29.75 feet); thence along the arc of a 50.00 foot radius curve to the right 50.59 feet (chord bears North $20^{\circ} 26' 09''$ East 48.46 feet); thence along the arc of a 35.00 foot radius curve to the left 17.24 feet (chord bears North $35^{\circ} 18' 21''$ East 17.07 feet); thence North $21^{\circ} 11' 28''$ East 49.79 feet; thence along the arc of a 1040.95 foot radius curve to the right 147.57 feet (chord bears North $25^{\circ} 15' 08''$ East 147.45 feet); thence along the arc of a 35.00 foot radius curve to the left 36.25 feet (chord bears North $00^{\circ} 21' 36''$ West 34.65 feet); thence along the arc of a 50.00 foot radius curve to the right 123.90 feet (chord bears North $40^{\circ} 57' 14''$ East 94.54 feet); thence along the arc of a 35.00 foot radius curve to the left 48.77 feet (chord bears North $72^{\circ} 01' 25''$ East 44.92 feet); thence North $32^{\circ} 06' 21''$ East 190.51 feet; thence along the arc of a 260.00 foot radius curve to the left 309.97 feet (chord bears North $02^{\circ} 02' 40''$ West 291.93 feet); thence North $36^{\circ} 11' 48''$ West 299.23 feet; thence along the arc of a 1515.01 foot radius curve to the right 309.85 feet (chord bears North $30^{\circ} 20' 21''$ West 309.31 feet); thence South $73^{\circ} 56' 00''$ West 7.74 feet; thence North $16^{\circ} 04' 00''$ West 378.27 feet; thence North $03^{\circ} 30' 45''$ West 126.36 feet; thence North $26^{\circ} 56' 20''$ West 288.33 feet; thence North $10^{\circ} 42' 18''$ West 314.43 feet; thence North $28^{\circ} 06' 28''$ West 658.75 feet; thence North $19^{\circ} 41' 37''$ West 288.61 feet; thence North $63^{\circ} 33' 25''$ West 217.13 feet; thence North $44^{\circ} 36' 47''$ East 34.85 feet; thence North $44^{\circ} 54' 34''$ West 100.02 feet; thence North $09^{\circ} 23' 45''$ West 138.16 feet; thence North $50^{\circ} 19' 01''$ East 215.67 feet; thence North $41^{\circ} 20' 20''$ West 450.43 feet to the point of beginning.

Description of the Additional Land

COMMENCING AT A POINT LOCATED SOUTH 00°06'49" EAST ALONG THE SECTION LINE 963.87 FEET AND EAST 921.42 FEET FROM THE NORTHWEST CORNER OF SECTION 10, TOWNSHIP 7 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN; THENCE NORTH 73°56'00" EAST 280.64 FEET; THENCE NORTH 16°04'00" WEST 60.80 FEET; THENCE ALONG THE ARC OF A 1515.01 FOOT RADIUS CURVE TO THE LEFT 371.14 FEET (CHORD BEARS SOUTH 29°10'48" EAST 370.22 FEET); THENCE SOUTH 36°11'48" EAST 299.23 FEET; THENCE ALONG THE ARC OF A 260.00 FOOT RADIUS CURVE TO THE RIGHT 309.97 FEET (CHORD BEARS SOUTH 02°02'40" EAST 291.93 FEET); THENCE SOUTH 32°06'21" WEST 296.89 FEET; THENCE ALONG THE ARC OF A 1015.04 FOOT RADIUS CURVE TO THE LEFT 193.35 FEET (CHORD BEARS SOUTH 26°38'58" WEST 193.05 FEET); THENCE SOUTH 21°11'33" WEST 66.51 FEET; THENCE ALONG THE ARC OF A 235.00 FOOT RADIUS CURVE TO THE RIGHT 140.18 FEET (CHORD BEARS SOUTH 38°16'50" WEST 138.11 FEET); THENCE SOUTH 55°22'05" WEST 107.49 FEET; THENCE ALONG THE ARC OF A 165.00 FOOT RADIUS CURVE TO THE LEFT 163.11 FEET (CHORD BEARS SOUTH 27°07'27" WEST 156.55 FEET); THENCE SOUTH 01°11'42" EAST 75.23 FEET; THENCE ALONG THE ARC OF A 484.98 FOOT RADIUS CURVE TO THE RIGHT 61.48 FEET (CHORD BEARS SOUTH 02°26'10" WEST 61.44 FEET); THENCE SOUTH 06°04'04" WEST 105.89 FEET; THENCE ALONG THE ARC OF A 515.08 FOOT RADIUS CURVE TO THE LEFT 66.90 FEET (CHORD BEARS SOUTH 02°20'50" WEST 66.85 FEET); THENCE SOUTH 01°22'15" EAST 123.80 FEET; THENCE ALONG THE ARC OF A 485.00 FOOT RADIUS CURVE TO THE RIGHT 138.91 FEET (CHORD BEARS SOUTH 06°50'02" WEST 138.44 FEET); THENCE SOUTH 15°02'20" WEST 59.02 FEET; THENCE SOUTH 34°17'14" WEST 98.79 FEET; THENCE SOUTH 62°58'40" WEST 134.09 FEET; THENCE ALONG THE ARC OF A 235.00 FOOT RADIUS CURVE TO THE LEFT 245.55 FEET (CHORD BEARS SOUTH 40°25'30" WEST 234.53 FEET); THENCE NORTH 35°33'16" WEST 199.31 FEET; THENCE NORTH 35°44'04" WEST 919.82 FEET; THENCE NORTH 35°26'52" WEST 1158.19 FEET; THENCE NORTH 54°33'58" EAST 581.54 FEET; THENCE SOUTH 86°14'38" EAST 50.00 FEET; THENCE SOUTH 88°40'06" EAST 799.95 FEET; THENCE NORTH 41°56'34" EAST 397.44 FEET TO THE POINT OF BEGINNING.

AREA = 2,912,661 SQ.FT. OR 66.87 ACRES

EXHIBIT "B"
22.73 ACRE PARCEL

ENT 124110 BK 5284 PG 176

COMMENCING AT A POINT LOCATED SOUTH 00°06'49" EAST ALONG THE SECTION LINE 2353.63 FEET AND EAST 1152.32 FEET FROM THE NORTHWEST CORNER OF SECTION 10, TOWNSHIP 7 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 23°58'58" WEST 156.65 FEET; THENCE SOUTH 29°20'44" EAST 320.68 FEET; THENCE NORTH 56°55'26" EAST 272.12 FEET; THENCE NORTH 63°34'06" EAST 203.12 FEET; THENCE NORTH 66°42'47" EAST 198.61 FEET; THENCE NORTH 79°30'21" EAST 88.09 FEET; THENCE NORTH 54°31'14" EAST 127.72 FEET; THENCE NORTH 63°39'24" EAST 84.36 FEET; THENCE SOUTH 89°36'27" EAST 295.42 FEET; THENCE NORTH 14°40'04" EAST 497.30 FEET; THENCE ALONG THE ARC OF 285.00 FOOT RADIUS CURVE TO THE RIGHT 92.80 FEET (CHORD BEARS N 53°54'24" E 92.39 FEET); THENCE NORTH 63°14'06" EAST 109.50 FEET; THENCE ALONG THE ARC OF A 185.00 FOOT RADIUS CURVE TO THE RIGHT 28.19 FEET (CHORD BEARS N 67°35'59" E 28.16 FEET); THENCE SOUTH 24°54'28" EAST 143.31 FEET; THENCE SOUTH 63°15'00" EAST 28.00 FEET; THENCE SOUTH 26°45'00" WEST 107.96 FEET; THENCE ALONG THE ARC OF A 572.98 FOOT RADIUS CURVE TO THE LEFT 207.27 FEET (CHORD BEARS S 16°23'15" W 206.14 FEET); THENCE SOUTH 06°01'31" WEST 48.51 FEET; THENCE ALONG THE ARC OF A 221.86 FOOT RADIUS CURVE TO THE RIGHT 187.90 FEET (CHORD BEARS S 30°17'15" W 182.33 FEET); THENCE ALONG THE ARC OF A 541.26 FOOT RADIUS CURVE TO THE LEFT 201.45 FEET (CHORD BEARS S 43°53'15" W 200.29 FEET); THENCE ALONG THE ARC OF A 322.90 FOOT RADIUS CURVE TO THE RIGHT 234.86 FEET (CHORD BEARS S 54°03'45" W 229.72 FEET); THENCE SOUTH 74°54'00" WEST 216.14 FEET; THENCE ALONG THE ARC OF A 573.00 FOOT RADIUS CURVE TO THE LEFT 383.39 FEET (CHORD BEARS S 55°47'04" W 376.27 FEET); THENCE SOUTH 36°37'01" WEST 102.61 FEET; THENCE SOUTH 36°37'00" WEST 58.50 FEET; THENCE ALONG THE ARC OF A 850.00 FOOT RADIUS CURVE TO THE RIGHT 196.67 FEET (CHORD BEARS S 43°14'42" W 196.23 FEET); THENCE SOUTH 49°47'59" WEST 142.06 FEET; THENCE ALONG THE ARC OF A 3500.12 FOOT RADIUS CURVE TO THE LEFT 146.61 FEET (CHORD BEARS S 48°36'00" W 146.60 FEET); THENCE SOUTH 47°24'00" WEST 104.18 FEET; THENCE ALONG THE ARC OF A 1200.01 FOOT RADIUS CURVE TO THE RIGHT 197.75 FEET (CHORD BEARS S 52°07'15" W 197.52 FEET); THENCE SOUTH 56°50'30" WEST 146.82 FEET; THENCE SOUTH 58°19'02" WEST 128.75 FEET; THENCE NORTH 30°30'00" WEST 83.26 FEET; THENCE ALONG THE ARC OF A 124.00 FOOT RADIUS CURVE TO THE RIGHT 42.10 FEET (CHORD BEARS N 20°46'25" W 41.90 FEET); THENCE NORTH 11°02'51" WEST 125.88 FEET; THENCE ALONG THE ARC OF A 122.00 FOOT RADIUS CURVE TO THE RIGHT 137.13 FEET (CHORD BEARS N 21°06'20" E 130.02 FEET); THENCE NORTH 53°14'00" EAST 160.25 FEET; THENCE ALONG THE ARC OF A 178.00 FOOT RADIUS CURVE TO THE LEFT 118.66 FEET (CHORD BEARS N 34°08'10" EAST 116.47 FEET); THENCE NORTH 15°02'20" EAST 123.80 FEET; THENCE ALONG THE ARC OF A 528.00 FOOT RADIUS CURVE TO THE LEFT 151.23 FEET (CHORD BEARS N 06°50'02" E 150.71 FEET); THENCE NORTH 01°22'15" WEST 123.83 FEET; THENCE ALONG THE ARC OF A 472.08 FOOT RADIUS CURVE TO THE RIGHT 61.29 FEET (CHORD BEARS N 02°50'50" EAST 61.25 FEET); THENCE NORTH 06°04'06" EAST 105.88 FEET; THENCE ALONG THE ARC OF A 527.98 FOOT RADIUS CURVE TO THE LEFT 66.93 FEET (CHORD BEARS N 02°26'12" E 66.89 FEET); THENCE NORTH 01°11'42" WEST 75.24 FEET; THENCE ALONG THE ARC OF A 122.00 FOOT RADIUS CURVE TO THE RIGHT 120.60 FEET (CHORD BEARS N 27°07'22" E 115.75 FEET); THENCE NORTH 55°22'05" EAST 37.94 FEET TO THE POINT OF BEGINNING.

AREA = 990,104 SQ.FT. OR 22.73 ACRES