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**AMENDED AND RESTATED
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS**

**ACORD MEADOWS
A Planned Unit Development**

Salt Lake County, Utah

**THIS AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS** (the "Declaration" is made this 5 day of October, 2006, by ACORD MEADOWS, L.L.C., a Utah limited liability company (the "Declarant"), in its capacity as the owner and developer of Acord Meadows, a Planned Unit Development, in Salt Lake County, Utah (the "Development"), pursuant to the following facts.

- A. On or about September 21, 2004, Plat-Tech, Inc., a Utah limited liability company, as the original declarant, caused to be recorded at the office of the Salt Lake County Recorder, as Entry 9177894, Book 9039, Pages 6078 through 6083, inclusive, that certain Declaration of Covenants, Conditions, and Restrictions pertaining to the Development (the "Original Declaration").
- B. Subsequent to the filing of the Original Declaration, Plat-Tech, Inc., or its successors or assigns, conveyed all right, title and interest in and to the Development to Declarant.
- C. Declarant has determined that the Original Declaration requires amendment in several particulars.
- D. Section 4.2 of the Original Declaration requires any amendment thereof to be executed by owners of not less than seventy-five percent (75%) of the Lots in the Development. Declarant is currently the Owner of all of the Lots in the Development and is, therefore, qualified to make any amendment and to execute and record the amending document with the Recorder of Salt Lake County, Utah. Pursuant to Section 4.2 of the Original Declaration, Declarant has consented in writing to this Amended and Restated Declaration.

E. This Declaration is an amendment and restatement in the entirety of the Original Declaration, and supersedes and replaces the Original Declaration.

ARTICLE I

PURPOSE AND EFFECTUATION

1.01 Purpose. The purpose of this instrument is to provide for the preservation of the values of both Lots and Common Areas within the Development, and for the maintenance of the Common Areas therein.

1.02 Effectiveness. From and after the effective date hereof: (1) Each part of the Development and each Lot and improvement constructed thereon lying within the boundaries of the Development shall constitute constituent parts of a single Planned Unit Development; (b) The Development shall consist of the Lots and of any Common Areas which are described herein or depicted on the Plat, together with such additional Lots and Common Areas as may come into existence pursuant to the provisions hereof relating to annexation or expansion of the Development; (c) The Declaration of Protective Covenants, Conditions, Easements and Restrictions for the Development shall consist of this document as the same may be modified, amended, supplemented, or expanded in accordance with the provisions hereof; and (d) The Plat of the Development shall consist of the instrument which is identified as such in **Article II** hereof.

ARTICLE II

DEFINITIONS

When used in this Declaration each of the following terms shall have the meaning indicated:

2.01 Articles shall mean and refer to the Articles of Incorporation of the Association, which are or shall be filed in the Office of the Division of Corporations and Commercial Code, State of Utah, as amended from time to time.

2.03 Assessment shall mean the amount which is to be levied and assessed against each Lot and paid by each Owner to the Association for Association expenses and purposes.

2.04 Association shall mean ACORD MEADOWS HOA, INC., a Utah nonprofit corporation, its successors and assigns.

2.05 Board shall mean the Board of Trustees of the Association.

2.06 **Bylaws** shall mean and refer to the Bylaws of the Association as set forth and embodied in this Declaration in Articles XXX.

2.07 **Common Areas** shall mean all portions of the Development except Lots and residential improvements constructed thereon and shall include all property owned by the Association for the common use, benefit and enjoyment of the Owners including all private undedicated streets and roadways, open spaces, landscaping, structural common areas, if any, amenities, and the like, together with all easements appurtenant thereto, whether or not reflected on the Plat.

2.08 **Declarant** shall mean Acord Meadows, L.L.C., a Utah limited liability company, its successors and assigns, if any, as developers of the Development.

2.09 **Declaration** shall mean this Amended and Restated Declaration of Covenants, Conditions and Restrictions as the same may be supplemented or amended from time to time.

2.10 **Development** shall mean the planned unit development known as Acord Meadows, a planned unit development, Salt Lake County, Utah, as it exists at any given time.

2.11 **Limited Common Areas** shall mean any Common Areas designated for exclusive use by the Owner of a particular Lot, whether or not designated as such on the Plat.

2.12 **Lot** shall mean and refer to any of the separately numbered and individually described parcels of land within the Development as designated on the Plat and intended for single family residential use.

2.13 **Managing Agent** shall mean any person or entity appointed or employed as Managing Agent by the Association.

2.14 **Mortgage** shall mean any recorded first mortgage or first deed of trust encumbering a Lot; and **Mortgagee** shall mean any mortgagee or beneficiary under a mortgage.

2.15 **Owner** shall mean any person who is the owner of record (as reflected by the records in the office of the County Recorder of Salt Lake County, Utah) of a fee or undivided fee interest in any Lot, and any contract purchaser of any Lot. Notwithstanding any applicable theory relating to mortgages, no Mortgagee nor any trustee or beneficiary of a deed of trust or trust deed shall be an owner unless such party acquires fee title pursuant to foreclosure or sale or conveyance in lieu thereof. Declarant shall be an Owner with respect to each Lot owned by it. Multiple owners of a particular Lot shall be jointly and severally liable as to all obligations and responsibilities of an Owner.

2.16 **Plat** shall mean and refer to the subdivision plat describing the Property, recorded in the records of Salt Lake County, Utah, and all amendments, supplements and corrections thereto.

2.17 **Property** shall mean all land covered by this Declaration, including Common Areas and Lots. The Property shall consist of the land described in Section 3.01 of Article III hereof.

ARTICLE III

PROPERTY DESCRIPTION AND ANNEXATION

3.01 **Submission.** The Property which is and shall be held, transferred, sold, conveyed, and occupied subject to the provisions of this Declaration consists of the real property in West Valley City, Salt Lake County, State of Utah, more particularly described on Exhibit "A", attached hereto and by this reference made a part hereof.

RESERVING UNTO DECLARANT, however, such easements and rights of ingress and egress over, across, through, and under the said property and any improvements (excluding buildings) now or hereafter constructed thereon as may be reasonably necessary for Declaration (in a manner which is reasonable and not inconsistent with the provisions of this Declaration): (i) to construct and complete improvements described in this Declaration or in the Plat recorded concurrently herewith, and to do all things reasonably necessary or proper in connection therewith; and (ii) to improve portions of the said property with such other or additional improvements, facilities, or landscaping designed for the use and enjoyment of all the Owners as Declarant may reasonably determine to be appropriate. If, pursuant to the foregoing reservations, the said property or any improvement thereon is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line shall exist. With the exception of such perpetual easements, the reservations effected by this paragraph shall, unless sooner terminated in accordance with their terms, expire ten (10) years after the date on which this Declaration is filed for record in the office of the County Recorder of Salt Lake County, Utah.

ALL OF THE FOREGOING IS SUBJECT TO all liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all Patent reservations and exclusions; all mineral reservations of records and rights incident thereto; all instruments of record which affect the above-described real property or any portion thereof, including, without limitation, any Mortgage (and nothing in this paragraph shall be deemed to modify or amend such Mortgage); all visible easements and rights-of-way; all easements and rights-of-way, encroachments, or discrepancies shown on or revealed by the Plat or otherwise existing; an easement for each and every pipe, line, cable, wire, utility line, or similar facility which traverses or partially occupies the said real property at such time as construction of all Development improvements is complete; and all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, lines, cable, wires, utility lines, and similar facilities; **AND TO EACH OF THE COVENANTS,**

EASEMENTS, CONDITIONS AND RESTRICTIONS CONTAINED IN THIS DECLARATION.

3.02 **Division into Lots.** The Development is divided into fourteen (14) Lots, numbered as set forth and described on the Plat, with appurtenant and equal rights and easements of use and enjoyment in and to the Common Areas, as well as appurtenant obligations pertaining to assessments, maintenance, etc., all as set forth in this Declaration.

ARTICLE IV

DUTIES AND OBLIGATIONS OF OWNERS

4.01 **Maintenance and Repairs.** Each Owner shall at his own cost maintain his Lot and any residential improvements constructed thereon in good condition and repair at all times. In the event of the damage or destruction of any residential improvements, the Owner of the Lot on which such improvement is situated shall either rebuilt the same within a reasonable time or shall raze the remains thereof so as to prevent the unsightly appearance and dangerous condition of a partially destroyed building in the Development. The painting or repainting, remodeling, rebuilding or modification of any residence exteriors or parts thereof must be submitted to and approved by the Architectural Control Committee pursuant to its procedures. No Owner shall neglect or fail to do everything possible to keep his Lot and residence dwelling in good and attractive condition and repair at all times.

4.02 **Assessments and Rules Observance.** Each Owner shall be responsible for the prompt payment of any Assessments provided for in this Declaration and for the observance of the rules and regulations promulgated by the Association from time to time.

4.03 **Transfer of Interests.** Except for obligations already accrued, an Owner who, for other than purposes of security, transfers all of his interests in his Lot to another, either voluntarily or by operation of law, shall be relieved of all obligations under this Declaration following such transfer.

ARTICLE V

PROPERTY RIGHTS AND CONVEYANCES

5.01 **Easement Concerning Common Areas.** Each Lot shall have appurtenant thereto a nonexclusive right and easement of use and enjoyment in and to the Common Areas for their intended purposes. Such right and easement shall be appurtenant to and shall pass with title to each Lot and shall in no event be separated therefrom.

5.02 **Form of Conveyancing; Leases.** Any deed, lease, mortgage, deed of trust, purchase contract or other instrument conveying or encumbering title to a Lot shall describe the interest or estate involved substantially as follows:

Lot No. _____ as identified in the Plat recorded in the office of the Salt Lake County Recorder as Entry No. _____, and Map Filing No. _____ contained within Plat _____ of Acord Meadows, a Planned Unit Development, Salt Lake County, Utah, SUBJECT TO the Amended and Restated Declaration of Covenants, Conditions and Restrictions, Acord Meadows, recorded in the office of the Salt Lake County Recorder in Book _____, at Page _____, as Entry No. _____ (as said Declaration may have heretofore been amended or supplemented), TOGETHER WITH a right and easement of use and enjoyment in and to the Common Areas described, and as provided for, in said Amended and Restated Declaration of Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

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.

5.03 **Transfer of Title to Common Areas.** Within a reasonable time following the recordation of this Declaration, Declarant shall convey to the Association title to the various common Areas free and clear of all liens, if possible, other than the lien of current general taxes and the lien of any nondelinquent assessments, charges, or taxes imposed by governmental or quasi-governmental authorities.

5.04 **Limitation on Easement.** Each Lot's appurtenant right and easement of use and enjoyment concerning the Common Areas shall be subject to the following:

(a) The right of the Association to govern by reasonable rules and regulations the use of the Common Areas so as to provide for the enjoyment of the Common Areas in a manner consistent with the collective rights of all of the Owners;

(b) The right of West Valley City, Utah, and any other governmental or quasi-governmental body having jurisdiction over the Property, to enjoy access and rights of ingress and egress over and across any Common Areas for the purpose of providing police and fire protection and providing any other governmental or municipal service; and

(c) The right of the Association to dedicate or transfer any part of the Common Areas to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association; provided that such dedication or transfer must first be assented to in writing by (i) the holder of each and every Mortgage that encumbers any Lot and (ii) the Owners of Lots to which at least sixty percent (60%) of the total votes in the Association appertain.

ARTICLE VI

USE RESTRICTIONS

6.01 **Use of Common Area.** The Common Areas shall be used only in a manner consistent with their community nature and with the use restrictions applicable to Lots and residential improvements set forth herein.

6.02 **Residential Use.** The Property is zoned for and is restricted to single family residential use pursuant to applicable ordinance provisions of West Valley City. Each Lot, residential improvement and Owner are subject to the uses and restrictions imposed by such zoning. Lots and residential improvements constructed thereon shall not be used, occupied, or altered in violation of such ordinances or so as to create a nuisance or to interfere with the rights of any other Owner.

6.03 **Prohibited Use and Nuisances.** The following uses and practices are specifically prohibited, in addition to any additional prohibitions which may, from time to time, be adopted by the Board pursuant to Section 12.03 of this Declaration:

(a) No Lot or residential improvement thereon or any part thereof shall be used or occupied except as a single family residence.

(b) No lease of any Lot and residence shall be for less than the whole thereof and any such lease shall recite that the same is subject to all of the provisions of this Declaration.

(c) No animals, livestock, or poultry of any kind shall be permitted on any Lot or within any residence except such domesticated household pets or birds as are allowed pursuant to the rules and regulations, including leash laws, adopted by the Board pursuant to this Declaration. In no event shall more than two (2) dogs or two (2) cats be allowed on any Lot. Any damage or destruction caused by any household pet shall be the sole responsibility of the Lot owner allowing such pet to reside on the Lot.

(d) No outside television or radio aerial or antenna, or other similar device for reception or transmission shall be permitted on any Lot or the exterior of any residential improvement except pursuant to written approval of the Architectural Control Committee pursuant to rules and regulations adopted by it or as set forth in this Declaration.

(e) No yard signs or signs of any kind may be placed on or around any Lot or any structure thereon, except one (1) professional sign of a conventional size may be placed on a Lot to advertise that the home or lot is for sale or rent.

Any Owner violating or allowing violation of any of the above prohibitions on its Lot, on another Lot, or the Common Areas shall be subject to a \$100 fine for each occurrence of a violation or for each day said violation remains unremedied. Upon receipt of a notice of such violation from the Association, such Owner shall immediately commence whatever steps are necessary to remedy the violation. At such time as the remedy of the violation is complete, the Owner shall so certify to the Association. In the event such Owner shall not remedy the violation, Declarant or the Association, as the case may be, shall have the right to injunctive relief from a court of competent jurisdiction, and shall be entitled to remedy the violation. In addition, any and all fines provided for in this paragraph, together with amounts expended by Declarant or the Association, as the case may be, including reasonable costs and attorneys fees, to remedy any violation hereunder, shall be, constitute, and remain: (a) a charge and continuing lien upon the Lot until fully paid; and (b) the personal, joint and several obligation of the Owner or Owners of such Lot at the time the violation occurs.

ARTICLE VII

ARCHITECTURAL CONTROL

7.01 **Architectural Control Committee.** The Board of Trustees of the Association shall appoint a three-member Architectural Control Committee (the "Committee"), the function of which shall be to ensure that all improvements and landscaping within the Development harmonize with existing surroundings and structures. The Committee need not be composed of Owners. If such a Committee is not appointed, the Board itself shall perform the duties required of the Committee.

7.02 **Submission to Committee.** No residential improvement, accessory or addition thereto, shall be constructed or maintained, and no alteration, repainting, or refurbishing of the exterior of any such improvement, accessories or additions shall be performed, unless complete plans and specifications therefore have first been submitted to and approved by the Committee.

7.03 **Standard.** In deciding whether to approve or disapprove plans and specifications submitted to it, the Committee shall use its best judgment to insure that all residential improvements, construction, landscaping, and alterations on Lots within the Development conform to and harmonize with existing surroundings and structures. Any structure hereafter constructed on any Lot in replacement of the structure previously located thereon shall be constructed in substantially the same configuration, location and architectural style and be approximately the same size as the prior structure; and if the plans and specifications therefore meet such criteria, the Committee must approve the same.

7.04 **Approval Procedure.** Any plans and specifications submitted to the Committee shall be approved or disapproved by it in writing within thirty (30) days after submission;

provided, however, that plans and specifications for any replacement structure to be constructed in substantially the same configuration, location and architectural style and to be of substantially the same size as its predecessor shall be approved or disapproved within ten (10) days after submission. In the event the Committee fails to take any action within such specified periods, it shall be deemed to have approved the material submitted except in those respects that such material is not in conformity with the provisions of this Declaration, as to which respects it shall be deemed disapproved.

7.05 **Construction.** Once begun, any improvements, construction, landscaping, or alterations approved by the Committee shall be diligently prosecuted to completion, as more fully set forth in Section 4.01 hereof. If reasonably necessary to enable such improvements, construction, landscaping, or alteration, the person or persons carrying out the same shall be entitled to temporarily use and occupy portions of the Common Areas in the vicinity of the activity provided that they shall promptly restore such areas to their prior condition when the use thereof is no longer required.

7.06 **Liability for Damages.** Neither the Committee nor any member thereof shall be held liable for damages by reason of any action, inaction, approval, or disapproval taken or given without malice by such member or the Committee with respect to any request made pursuant to this Article VII.

ARTICLE XIII

INSURANCE

8.01 **Hazard Insurance.** The Board shall procure and maintain such insurance as it shall determine to be necessary.

8.02 **Review of Insurance.** The Board shall periodically, and whenever requested by Owners entitled to exercise at least twenty percent (20%) of the outstanding votes in the Association, review the adequacy of the Association's insurance program and shall report in writing the conclusions and action taken on such review to the Owners and to the holder of any Mortgage on any Lot who shall have requested a copy of such report. Copies of every policy of insurance procured by the Board shall be available for inspection by any Owner and any Mortgagee.

ARTICLE IX

RIGHTS OF MORTGAGEES

9.01 **Title and Mortgagee Protection.** A breach of any of the covenants, provisions, or requirements of this Declaration shall not result in any forfeiture or reversion of title or of any other interest in a Lot or any other portion of the Property. A breach of any of the covenants, provisions, or requirements of this Declaration shall not defeat, impair, or render invalid the lien

of or other rights under any Mortgage. Unless and until it enters into possession or acquires title pursuant to foreclosure or any arrangement or proceeding in lieu thereof, any Mortgagee interested under any Mortgage affecting a Lot or any other portion of the Property shall have no obligation to take any action to comply with, and may not be compelled to take any action to comply with, any of the covenants, provisions, or requirements of this Declaration (other than those, if any, concerning a consent or approval to be given by a Mortgagee, in the event a Mortgagee's failure to give same is wrongful). No amendment to this Declaration shall in any way affect the rights of any Mortgagee interested under a Mortgage which is in effect at the time of the amendment concerned or the rights of any successor in interest or title to such Mortgagee, either before or after such Mortgagee or its successor enters into possession or acquires title pursuant to foreclosure or any arrangement or proceeding in lieu thereof, unless such Mortgagee has consented in writing to such amendment.

9.02 Preservation of Common Area. The Common Areas shall remain substantially of the same character, type and configuration as when such Common Areas became part of the Development. Except as contemplated by Section 5.04(c), unless the Association shall receive the prior written approval of (a) all first Mortgagees of Lots; and (b) the Owners of all Lots, the Association shall not be entitled by act or omission to abandon, partition, subdivide, encumber, sell, transfer or materially modify the Common Areas, except to grant reasonable easements for utilities and similar or related purposes.

9.03 Notice of Matters Affecting Security. The Association shall give written notice to any Mortgagee of a Lot requesting such notice whenever:

(a) there is any material default by the Owner of the Lot subject to the Mortgage in performance of any obligation under this Declaration or the Articles of the Association which is not cured within sixty (60) days after default occurs; or

(b) there is any condemnation or taking by eminent domain of any material portion of the Common Areas.

9.04 Notice of Meetings. The Board shall give to any mortgagee of a Lot requesting the same, notice of all meetings of the Association; and such Mortgagee shall have the right to designate in writing a representative to attend all such meetings.

9.05 Right to Examine Association Records. Any Mortgagee shall, upon request, have the same right to inspect the books and records of the Association and receive financial statements as the Owner of the Lot securing the Mortgage.

9.06 Right to Pay Taxes and Charges. Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any portion of the Common Areas and may pay overdue premiums on insurance policies pertaining to the Common Areas, or secure new insurance coverage pertaining to the Common Areas on the lapse of a policy; and Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

9.07 No Priority Accorded. No provision of this Declaration gives or may give a Lot Owner or any other party priority over any rights of Mortgagees pursuant to their respective Mortgages in the case of a distribution to Lot Owners of insurance proceeds or condemnation awards for loss to or taking of Lots and/or the Common Areas.

9.08 Construction. In the event another provision or clause of this Declaration deals with the same subject matter as is dealt with in any provision or clause of this Article IX, the provision or clause which results in the greatest protection and security for a Mortgagee shall control the rights, obligations, or limits of authority, as the case may be, applicable to the Association with respect to the subject concerned.

ARTICLE X

DECLARANT'S RIGHTS AND RESERVATIONS

Declarant is undertaking the work of construction of the Project and the creation of the planned unit development on the Property. The completion of that work and the sale or other disposition of the Units is essential to the establishment and welfare of the Property as a residential community. In order that said work may be completed and said Property be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to:

10.01 Prevent Declarant, its contractors, or subcontractors from doing work on the Property, whatever is reasonably necessary or advisable in connection with the completion for the work; or

10.02 Prevent Declarant or its representative from erecting, constructing and maintaining on any part of parts of the Property, such structures as may be reasonable and necessary for the conduct of its business of completing said work and establishing said Property as a residential community and disposing of the same in parcels by sale or other disposition; or

10.03 Prevent Declarant from maintaining such sign or signs on any of the Property as may be necessary for the sale or disposition thereof; or

In the event Declarant shall convey all of its right, title and interest in and to the Property to any partnership, individual or individuals, corporation or corporations, then and in such event, Declarant shall be relieved of the performance of any further duty or obligation or liability herein, and such partnership, individual or individuals, corporation or corporations, shall be obligated to perform all such duties and obligations of the Declarant.

ASSOCIATION BYLAWS

THE ASSOCIATION'S BYLAWS ARE HEREBY EMBODIED IN THIS DECLARATION AS ARTICLES XI, XII AND XIII. THE MISCELLANEOUS PROVISIONS OF ARTICLE XIII OF THIS DECLARATION SHALL BE APPLICABLE TO BOTH THE DECLARATION AND BYLAWS PROVISIONS, AS THE CASE MAY BE.

ARTICLE XI

BYLAWS

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

11.01 Membership. Every Owner upon acquiring title to a Lot shall automatically become a member of the Association and shall remain a member thereof until such time as his ownership of such Lot ceases for any reason, at which time his membership in the Association with respect to such Lot shall automatically cease and the successor Owner shall become a member. Membership in the Association shall be mandatory and shall be appurtenant to and may not be separated from the ownership of a Lot.

11.02 Voting Rights. The Owner(s) of each Lot shall be entitled to one (1) vote as a member in the Association.

11.03 Multiple Ownership Interests. In the event there is more than one Owner of a particular Lot, the vote relating to such Lot shall be exercised as such Owners may determine between or among themselves, but in no event shall more than the total number of votes appurtenant to such Lot be cast with respect to any issue. A vote cast at any Association meeting or by written consent by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the entire vote attributable to the Lot concerned unless an objection is made at the meeting or in writing by another Owner of the same Lot, in which event no vote will be counted with respect to such Lot except to determine the presence or absence of a quorum.

11.04 Place of Meeting. Meetings of the Association shall be held at such suitable place convenient to the Owners as may be designated by the Secretary of the Association in the notice thereof.

11.05 Annual Meetings. Annual meetings of the membership of the Association shall be held in the month of October of each year beginning in the year 2007 if the Trustees deem it necessary in 2007; otherwise in 2008, on such day and time as is set forth in the notice therefore; provided, that after the first such annual meeting, a month other than October may be chosen if it is deemed by the membership to be more convenient. At such annual meetings there shall be elected trustees of the Board, as needed, pursuant to the provisions of this Declaration. Financial

and budget reports shall also be presented at such meetings as well as other business of the Association properly placed before each meeting.

11.06 Special Meetings. The President shall call a special meeting of the Owners as directed by a resolution of the Board or on a petition signed by Owners holding at least thirty percent (30%) of the total votes of the Association and having been presented to the Secretary. No business shall be transacted at a special meeting except as stated in the notice therefor unless consented to by fifty percent (50%) or more of the Owners present, either in person or by proxy.

11.07 Notice of Meetings. The Secretary shall mail a notice of each annual or special meeting stating the purpose thereof as well as the time and place of the meeting to each Owner of record at least ten (10) but not more than twenty (20), days prior to such meeting. The mailing of notice by prepaid U.S. Mail or by delivery in person shall be considered notice served.

11.08 Quorum. Owners present in person or by proxy at any membership meeting duly called pursuant to notice shall constitute a quorum at all meetings, both annual and special.

11.09 Officers. The Association shall have a President, a Vice President and a Secretary/Treasurer all of whom shall be elected by and from the Board. The board may appoint an Assistant Secretary and Assistant Treasurer. Only the offices of Secretary and Treasurer may be filled by the same person. The officers shall be elected by the Board in an organizational meeting of the Committee immediately following each annual meeting of Owners at which the new Board has been elected.

(a) **President.** The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board. The President shall have all of the general powers and duties that are usually vested in the office of president of a similar type association.

(b) **Vice President.** The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor Vice President is able to act, the Board shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed on him by the Board.

(c) **Secretary.** The Secretary shall keep the minutes of all meetings of the Board and the minutes of all meetings of the Association. He shall have charge of such books and records as the Board may direct and he shall, in general, perform all duties incident to the office of secretary of a similar type association.

(d) **Treasurer.** The Treasurer shall have responsibility for Association funds and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all money and any other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Board.

11.10 Initial Composition of Board. Declarant alone shall have the right to select the initial Board of Trustees which may be composed of less than five (5) Trustees but not less than three (3), none of whom need be Owners. Such right of the Declarant to appoint the Board shall remain in Declarant until the expiration of four (4) years after the first conveyance of title to any Lot Owner or until Declarant voluntarily waives such right, in whole or in part, in writing and requests the Association to elect members of the Board in accordance with the Association's Bylaws set forth herein, whichever event shall first occur.

11.11 Board of Trustees: Composition, Election, Vacancies. Subject to the provisions of Section 11.10, the Board shall be composed of three (3) Trustees, each of whom shall be an Owner (or an officer, director, or agent of a non-individual Owner). At the first meeting of Owners to elect a Board of Trustees two (2) to a two-year term, and one (1) to a one-year term. As Trustees' terms expire, new Trustees shall be elected for two-year terms and shall serve on the Board until their successors are elected. Vacancies on the Board shall be filled by the remaining Trustees from among the Owners and such appointees shall serve until the next annual meeting of Owners when their successors shall be elected for the unexpired term of the Trustee they were appointed to replace. An appointee may be elected to such unexpired term.

11.12 Indemnification of Board. Each of the Trustees shall be indemnified and held harmless by the Lot Owners against all costs, expenses, and liabilities whatsoever (excluding fraudulent and/or criminal actions) including, without limitation, attorneys' fees reasonably incurred in connection with any proceeding in which such Trustee may become involved by reason of being or having been a member of said Board.

11.13 Board Meetings, Quorum, Board Action. The Board of Trustees shall establish its rules for meetings, either regular or special. A majority of current Trustees shall constitute a quorum. The action of a majority of those Trustees attending a meeting at which a quorum is present shall be sufficient to constitute the action of the Board. Action of the Board by consent shall require the unanimous written consent of all Trustees currently serving.

ARTICLE XII

BYLAWS

DUTIES AND POWERS OF THE ASSOCIATION

12.01 Duties of the Association. The Association, through its Board of Trustees, is responsible for the maintenance of any Common Areas, the determination, imposition and collection of Assessments, the enforcement of the provisions of this Declaration and, in general, the preservation of the residential quality and character of the Development to the benefit and general welfare of the Owners. Without limiting any other duties which may be imposed upon the Association by its Articles of Incorporation, Bylaws or the Declaration, the Association shall have the obligation and duty to do and perform each and every one of the following for the benefit of the Owners and the maintenance and improvement of the Property:

- (a) The Association shall accept all Owners as members of the Association.
- (b) The Association shall accept title to all Common Areas conveyed to it, whether by Declarant or by others, provided the same is free and clear of liens and encumbrances except as may be provided herein; otherwise, the vote of at least a majority of the voting membership shall be required.
- (c) The Association shall maintain, repair, replace and landscape the Common Areas.
- (d) To the extent not assessed to or paid by the Owners directly, the Association shall pay all real property taxes and assessments levied upon any portion of the Common Areas, provided that the Association shall have the right to contest or compromise any such taxes or assessments.
- (e) The Association shall obtain and maintain in force the policies of insurance required of it by the provisions of the Declaration.
- (f) The Association may employ a responsible corporation, partnership, firm, person or other entity as the Managing Agent to manage and control the Common Areas, subject at all times to direction by the Board, with such administrative functions and powers as shall be delegated to the Managing Agent by the Board. The compensation of the Managing Agent shall be reasonable as specified by the Board. Any agreement appointing a Managing Agent shall be terminable by either party, with or without cause and without payment of any termination fee, upon thirty (30) days' written notice thereof; and the term of any such agreement may not exceed one (1) year, renewable by agreement of the parties for successive periods of one (1) year each. Any Managing Agent may be an agent or employee of the Association or an independent contractor, as the Board deems appropriate.

12.02 Powers and Authority of the Association. The Association shall have all the powers set forth in its Articles of Incorporation and Bylaws, together with its general powers as a nonprofit corporation, and the power to do any and all things which may be authorized, required or permitted to be done by the association under and by virtue of the Declaration or the Bylaws, including the power to levy and collect assessments as hereinafter provided. Without in any way limiting the generality of the foregoing, the Association shall have the following powers:

- (a) At any time and from time to time and without liability to any Owner for trespass, damage or otherwise, to enter upon any Lot for the purpose of maintaining and repairing such Lot or any improvement thereon if for any reason the Owner fails to maintain and repair such Lot or improvement as required herein. The Association shall also have the power and authority from time to time in its own name, on its own behalf, or in the name and behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the Declaration, the Bylaws or any rules and regulations promulgated by the Board, or to enforce by mandatory injunction or otherwise all of the provisions of the Declaration, the Bylaws and such rules and regulations.

(b) In fulfilling any of its duties under the Declaration, including its duties for the maintenance, repair, operation or administration of the Common Areas and Lots (to the extent necessitated by the failure of the Owners of such Lots) or in exercising any of its rights to construct improvements or other work upon any of the Common Areas, the Association shall have the power and authority to obtain, contract and pay for, or otherwise provide for:

(i) Construction, maintenance, repair and landscaping of the Common Areas on such terms and conditions as the Board shall deem appropriate;

(ii) Such insurance policies or bonds as the Board may deem appropriate for the protection or benefit of the Association, the members of the Board and the Owners;

(iii) Such Common Area related utility services as the Board may from time to time deem necessary or desirable;

(iv) The services of architects, engineers, attorneys and certified public accountants and such other professional or nonprofessional services as the Board may deem desirable;

(v) Fire, police and such other protection services as the Board may deem desirable for the benefit of the Owners or any of the Property; and

(vi) Such materials, supplies, furniture, equipment, services and labor as the Board may deem necessary.

12.03 Association Rules. The Board from time to time, subject to and not inconsistent with the provisions of the Declaration or the Bylaws, may adopt, amend, repeal and enforce reasonable rules and regulations governing, among other things: (a) the use of the Common Areas; (b) the use of any facilities owned by the Association; (c) the collection and disposal of refuse; (d) uses and nuisances pertaining to the Property; and (e) all other matters concerning the use and enjoyment of the Property and the conduct of Owners, their pets, and their invitees within the Development.

12.04 Limitation of Liability. No member of the Board acting in good faith shall be personally liable to any Owner, guest, lessee or any other person for any error or omission of the Association, its representative and employees, the Board, any committee of the Board, or the Managing Agent.

ARTICLE XIII

BYLAWS

ASSESSMENTS

13.01 **Personal Obligation and Lien.** Each Owner shall, by acquiring or in any way becoming vested with his interest in a Lot, be deemed to covenant and agree to pay to the Association all assessments, annual, special, or Reimbursement Assessments, described in this Article, together with late payment fees, fines, interest and costs of collection, if and when applicable. All such amounts shall be, constitute, and remain: (a) a charge and continuing lien upon the Lot with respect to which such assessment is made until fully paid; and (b) the personal, joint and several obligation of the Owner or Owners of such Lot at the time the assessment falls due. No Owner may exempt himself or his Lot from liability for payment of assessments by waiver of his rights in the Common Areas or by abandonment of his Lot. In a voluntary conveyance of a Lot, the grantee shall be jointly and severally liable with the grantor for all such unpaid assessments, late payment fees, interest and costs of collection, including reasonable attorney's fees, which shall be a charge on the Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore.

13.02 **Purpose of Assessments.** Assessments levied by the Association shall be used exclusively for the purpose of promoting the Development, the interests of the Owners therein, paying costs properly incurred by the Association, and the maintenance, operation and carrying of the Common Areas. The use made by the Association of funds obtained from assessments may include, but shall not be limited to, payment of the cost of: taxes and insurance on the Common Areas; maintenance, repair, and improvement of the Common Areas, including snow removal; establishment and funding of a reserve to cover major repair or replacement of improvements within the Common Areas; and any expense necessary or desirable to enable the Association to perform or fulfill its obligations, functions or purposes under the Declaration or its Articles of Incorporation, Bylaws or rules and regulations.

13.03 **Annual Assessments.** Annual assessments shall be computed and assessed equally against all Lots in the Development based upon advance estimates of the Association's cash requirements to provide for payment of Association costs as set forth herein.

13.04 **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 recordation of this Declaration. On or before December 15 of each fiscal year the Association shall prepare and furnish to each Owner an operating budget for the upcoming fiscal year. The operating budget for the first fiscal year shall be prepared and furnished to each Owner within thirty (30) days of such Owner's initial purchase. The budget shall itemize the estimated cash requirements for such fiscal year, anticipated receipts, reserves, and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the annual assessments for the upcoming fiscal year and as the major guideline under which the Development shall be operated during such annual period.

13.05 Notice and Payment of Annual Assessments. The Association shall notify each Owner as to the amount of the annual assessment against his Lot on or before December 15 of the year preceding the year for which such annual assessment is made. Each annual assessment shall be payable on or before January 15 of each year. The failure of the Association 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 the Declaration, or a release of any Owner from the obligation to pay such assessment or any other assessment; but the date when the payment shall become due in such case shall be deferred to a date fifteen (15) days after notice of such assessment shall have been given to the Owner in the manner provided in the Declaration.

13.06 Initial Fees. In addition, each Owner (other than Declarant), shall be required to prepay at the time of purchase of his Lot, a sum equal to one-half the annual assessment of the most recently ended assessment year, which sum shall be in addition to any proration of assessment which may be due for the year in which such purchase takes place. Such fees shall become part of the Association's general fund to be utilized as necessary.

13.07 Maximum Annual Assessment. From and after January 1 of the calendar year immediately following the conveyance of the first Unit to an Owner, the maximum annual assessment may be increased each calendar year thereafter by not more than twenty-five percent (25%) above the maximum annual assessment for the previous year without the vote of Owners entitled to cast a majority of the Association votes.

13.08 Special Assessments. The Association may levy special assessments for the purpose of defraying, in whole or in part: (a) any expense or expenses not reasonably capable of being fully paid with funds generated by annual assessments; or (b) the cost of any construction, reconstruction, or unexpectedly required addition to or replacement of the Common Areas. Any such special assessment shall be apportioned among and assessed to all Lots in the same manner as annual assessments. Such special assessments must be assented to by a majority of the votes of the membership which Owners present in person or represented by proxy are entitled to cast at a meeting duly called for such purpose. Written notice setting forth the purpose of such meeting shall be sent to all Owners at least ten (10) but not more than thirty (30) days prior to the meeting date.

13.09 Uniform Rate of Assessment. All annual and special assessments authorized hereunder shall be fixed at a uniform rate for all Lots; provided, however, that until a Lot has been both fully improved with a residential improvement and sold by Declarant for the first time, the annual and special assessments applicable to such Lot shall **not** be due and payable.

13.10 Certificate Regarding Payment. Upon the request of any Owner or prospective purchaser or encumbrancer of a lot and upon the payment of a reasonable fee to the Association to cover administrative costs, the Association shall issue a certificate stating whether or not payments of all assessments respecting such Lot are current and, if not, the amount of the delinquency. Such certificate shall be conclusive in favor of all persons who rely thereon in good faith.

13.11 Effect of Nonpayment; Remedies. Any assessment (whether annual, special or Reimbursement Assessment) not received within ten (10) days of the date on which it becomes due shall be subject to a late charge equal to 5% thereof, which together with interests and costs of collection shall be, constitute, and remain a continuing lien on the affected Lot. If any assessment is not received within ten (10) days after the date on which it becomes due, the amount thereof shall also bear interest from the due date at the rate of one and one-half percent (1 ½%) per month; and the Association may bring an action against the Owner who is personally liable therefor or may foreclose its lien against the Lot, or both. Any judgment obtained by the Association in connection with the collection of delinquent assessments and related charges shall include reasonable attorney's fees, court costs and every other expense incurred by the Association in enforcing its rights.

13.12 Subordination of Lien to First Mortgages. The lien of the assessments provided herein shall be subordinate to the lien of any first Mortgage given to a bank, savings and loan association, insurance company or other institutional lender; and the holder of any such Mortgage or purchaser who comes into possession of or becomes the Owner of a Lot by virtue of the foreclosure of such first Mortgage or the exercise of a power of sale under such first Mortgage, or by deed in lieu of foreclosure, shall take free of such assessment lien as to any assessment installment which accrues or becomes due prior to the time such holder or purchaser comes into possession or ownership of such Lot; provided, that to the extent there are any proceeds of the sale on foreclosure of such first Mortgage or by exercise of such power of sale in excess of all amounts necessary to satisfy all indebtedness secured by and owed to the holder of such first Mortgage, the lien shall apply to such excess. No sale or transfer of a Lot in connection with any foreclosure of a first Mortgage shall relieve any Lot from the lien of any assessment installment thereafter becoming due.

ARTICLE XIV

MISCELLANEOUS

14.01 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 delivered or mailed, postage prepaid, or hand-delivered to the person named as the Owner at the latest address for such person, as reflected in the records of the Association at the time of delivery or mailing. Any notice required or permitted to be given to the Association may be given by delivering or mailing the same to the Managing Agent or any officer or Trustee of the Association. Any notice required or permitted to be given to the Architectural Control Committee may be given by delivering or mailing the same to the Managing Agent or the Association or any member of the Architectural Control Committee.

14.02 Amendment. The vote of Owners (including Declarant) who collectively hold at least a majority of the total outstanding votes in the Association shall be required to amend this Declaration (including the Association Bylaws set forth herein). Any amendment so authorized shall be accomplished through the recordation of an instrument executed by the Association's President (or Vice President) and Secretary wherein they certify that the vote required for

amendment has occurred and a record thereof exists in the Association records. In addition, such right of amendment shall be subject to the following qualification: no amendment to any provision of this Declaration which has the effect of diminishing or impairing any right, power, authority, privilege, protection, or control accorded to Declarant (in its capacity as Declarant), to a Mortgagee or to the Association shall be accomplished or effective unless the instrument through which such amendment is purported to be accomplished is consented to in writing by Declarant, by such Mortgagee or by such Association, as the case may be.

14.03 Consent in Lieu of Vote. In any case in which this Declaration requires for authorization or approval of a transaction the assent or affirmative vote of a stated percentage or number of votes outstanding in the Association or of the Owners, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Owners entitled to cast at least the stated percentage or number of all membership votes then outstanding in the Association, unless a higher percentage or a greater number is required by law. The following additional provisions shall govern any application of this Section 14.03:

(a) All necessary consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Owner.

(b) The total number of votes required for the applicable authorization or approval shall be determined as of the date on which the last consent is signed.

(c) Any change in ownership of a Lot which occurs after a consent has been obtained from the Owner thereof shall not be considered or taken into account for any purpose.

(d) Unless the consent of all Owners whose memberships are appurtenant to the same Lot are secured, the consent of none of such Owners shall be effective.

14.04 Declarant's Rights Assignable. All or any portion of the rights of Declarant under this Declaration or in any way relating to the Property may be assigned.

14.05 Interpretation. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall 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, 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 hereof, which shall remain in full force and effect. The laws of the State of Utah shall govern the validity, construction and enforcement of this Declaration.

14.06 Condemnation. If at any time or times an insubstantial or minor part of the Common Areas or any part thereof shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages shall be payable to the Association and shall be used by the Association to the extent necessary for restoring or replacing any improvements on the remainder of the Common Areas. In the event of any other taking or condemnation, the interests of the Association, the Owners and Mortgagees shall be as they may appear.

14.07 **Covenants to Run with Land.** This Declaration and all 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 heretofore acquired or hereafter acquire any interest in a Lot, their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Lot shall comply with, and all interest in all Lots or in the Common Areas 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, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

14.08 **Enforcement of Restrictions.** The following persons shall have the right to exercise or seek any remedy at law or in equity to interpret, to enforce compliance with or to obtain redress for violation of this Declaration:

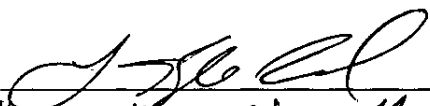
- (a) Any Owner;
- (b) The Association; or
- (c) Any Mortgagee.

The prevailing party in an action for the interpretation of, the enforcement of or to obtain redress for violation of any provisions of this Declaration shall be entitled to collect court costs and reasonable attorneys' fees.

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

EXECUTED by Declarant on the day and year first above written. Declarant further declares that, pursuant to Section 4.2 of the Original Declaration, it is the Owner of 100% of the Lots within the Development.

ACORD MEADOWS, L.L.C.

By: 
Its: MANAGING MEMBER

STATE OF UTAH)
: ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 5th day of October
2006, by L. Kyle Lind, the Manager of Acord Meadows, L.L.C..

Melinda G Wankier

NOTARY PUBLIC

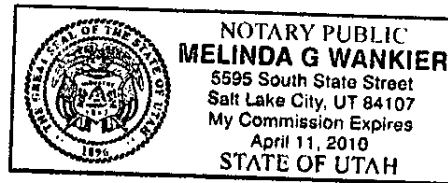


EXHIBIT "A"

Description of Real Property

Acord Meadows Subdivision, Lots 1 through 14, located in the Southwest Quarter of Section 27, Township 1 South, Range 2 West, Salt Lake Base and Meridian, West Valley City, Salt Lake County, as recorded in the State of Utah.

TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described parcel of real property, whether or not the same are reflected on the Plat.