

SUNBROOK ESTATES

DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by SUNBROOK DEVELOPMENT, LTD., a Utah limited partnership, its successors and assigns, (hereinafter referred to as "Declarant"),

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property known as SUNBROOK ESTATES, a portion of which (River's Edge at Sunbrook) is more particularly described in Exhibit A attached hereto and by this reference made a part hereof and any lands hereafter annexed hereto (hereinafter referred to as "Sunbrook");

WHEREAS, The Declaration of Covenants and Restrictions for Sunbrook Estates (hereinafter referred to as the "Declaration") contemplates and provides for the annexation of additional property to the Sunbrook Declaration; and

WHEREAS, Declarant has established a land use plan for Sunbrook and desires to provide for the preservation of the values and amenities hereby established and to this end does hereby subject the real property described in Exhibit A to the land use covenants, restrictions, easements, reservations, regulations, burdens, and liens hereinafter set forth; and

WHEREAS, Declarant has deemed it desirable for the maintenance and preservation of the values and amenities established as aforesaid to establish the SUNBROOK ESTATES PROPERTY OWNERS ASSOCIATION, INC., a Utah corporation not for profit (hereinafter referred to as the "Property Owners Association"), and to delegate and assign certain powers and duties of ownership, operation, administration, maintenance, and repair of certain property within the Sunbrook project, the enforcement of the covenants, conditions, restrictions, and easements contained herein and the collection and disbursement of the assessments and charges hereinafter provided to the Property Owners Association.

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained, Declarant hereby declares that Sunbrook, to the extent now committed to this Declaration, shall be owned, held, used, transferred, sold, conveyed, devised, and occupied subject to the covenants, conditions, restrictions, easements, reservations, regulations, burdens, and liens hereinafter set forth.

1. DEFINITIONS

As used herein, the following terms have the indicated meanings:

- 1.1 "Lot Owner" shall mean and refer to the fee simple title holders of a Lot within Sunbrook.
- 1.2 "Lot" shall mean a parcel held in fee simple title, as shown on and included within the Plats of Sunbrook, now or hereafter filed for record by Declarant with the Washington County Recorder.

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REQUEST: SUNBROOK DEVELOPMENT

1.3 "Declaration" shall mean this Declaration of Covenants and Restrictions for Sunbrook.

1.4 "Common Property" shall mean all of the land presently owned, if any, or to be acquired in the future by the Sunbrook Estates Property Owners Association and all improvements constructed hereon, and all personal property owned by the Association located thereon.

1.5 "Limited Common Property" shall mean all of the land presently owned, if any, or acquired in the future by a sub-association and improvements constructed thereon, and all personal property owned by the sub-association located thereon.

1.6 "Declarant" shall mean SUNBROOK DEVELOPMENT, LTD., its successors and assigns.

1.7 "Property Owners Association" shall mean the Sunbrook Estates Property Owners Association, Inc.

2. PROPERTY RIGHTS.

2.1 **Lot Owners Easements.** Every Lot Owner shall be a member of the Property Owners Association and shall have a right and easement of enjoyment in and to the Common Property and shall have a permanent and perpetual right and easement of enjoyment in and to the property subject to this Declaration, which shall be appurtenant to and shall pass with the title to every Lot within Sunbrook, subject to all of the following:

2.1.1 All provisions of this Declaration, any plat of all or any part of parts of Sunbrook, the Articles of Incorporation and the By-Laws of the Property Owners Association;

2.1.2 Rules and regulations adopted by the Property Owners Association governing the use and enjoyment of that portion of the Common Property not intended to be a part of any Lot;

2.1.3 The right of the Property Owners Association to promulgate rules and regulations concerning Sunbrook;

2.1.4 The rights of the Property Owners Association to levy assessments against each Lot Owner for the maintenance, protection, and preservation of Sunbrook in compliance with this Declaration;

2.1.5 Easements, both recorded and unrecorded, for public and/or private utilities.

2.1.6 It is contemplated that pursuant to Article 6 of this Declaration, additional lands may be annexed to Sunbrook from time to time and that sub-associations may be created for the purpose of maintaining and administering individual neighborhoods or providing amenities within Sunbrook. In such event:

(e) With respect to Lot Owners within any part of the land which may subsequently be annexed to Sunbrook, the right to use of the Common Property of the Property Owners Association shall be limited to the Common Property.

(b) The responsibility for maintaining the Limited Common Property shall be delegated to one or more sub-associations, and the use and enjoyment of the Limited Common Property in each instance shall be limited to members of the applicable sub-association.

(c) Assessments for maintenance, protection and preservation of Limited Common Property shall be levied, in each instance, by the applicable sub-association, and no Lot Owner shall be assessed with respect to Limited Common Property except those which are the responsibility of the particular sub-association of which the Lot Owner is also a member.

(d) In the event a sub-association is levying and collecting assessments as herein set forth, the sub-association shall also collect any assessments levied against the Lot Owner by the Property Owners Association, and shall deliver said sum or sums to the Property Owners Association.

2.2 Delegation of Use. A Lot Owner may delegate, in accordance with this Declaration, the Articles of Incorporation and By-Laws of the Property Owners Association, his right to use of the Common Property to the members of his family, his tenants, or contract purchasers who reside on his Lot.

2.3 Permitted Uses. Property in Sunbrook shall be restricted to the following uses:

2.3.1 All Lots shall be used only for single family residential purposes and no professional, business or commercial use shall be made of the same, or any portion thereof, nor shall any resident's use of a Lot endanger the health or disturb the reasonable enjoyment of any other owner or resident, provided, however, that the Lot restrictions contained in this section shall not be construed in such a manner as to prohibit an Owner or resident from (a) maintaining his personal, professional library therein; (b) keeping his personal business or professional records or accounts therein; or (c) handling his personal business or professional telephone calls or correspondence therefrom. Lot sizes as described on the recorded plat of any subdivision in Sunbrook are considered minimum lot sizes, and unless specified in the Architectural Guidelines for that subdivision, no person shall further subdivide any Lot other than as shown on the recorded plat of said subdivision.

2.3.2 The Common Property, now and forever, shall be restricted hereby such that it shall be maintained as open space for the use and benefit of the Lot Owners, and to the extent necessary for their benefit, the Lot Owners of Sunbrook, including easements and rights of way for the construction, operation, and maintenance of utility services, both public and private, and drainage facilities, and also for common access, ingress and egress, and shall not be used for any commercial or industrial use except as herein described.

3. MEMBERSHIP AND VOTING RIGHTS IN THE PROPERTY OWNERS ASSOCIATION.

3.1 Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot, which is subject to assessment by the Property Owners Association, including contract sellers and Declarant, shall be a member of the Property Owners Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Property Owners Association.

Change of membership shall be established by recording in the Official Records of Washington County, Utah, a deed or other instrument establishing record fee title to such Lot and by the delivery to the Property Owners Association of a certified copy of such instrument. The owner designated by such instrument or such certificate thus becomes a member of the Property Owners Association, and the membership of the prior owner shall be terminated. In the event that a certified copy of said instrument or such certificate is not delivered to the Property Owners Association, said Lot Owner shall become a member, but shall not be entitled to voting privileges. The foregoing shall not, however, limit this Property Owners Association's powers or privileges.

3.2 Classes and Voting Rights. The Property Owners Association shall have two (2) classes of voting membership:

3.2.1 Class A. The Class A members shall be all Lot Owners (with the exception of Declarant). Each Lot Owner shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be members. The vote for each Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any single Lot.

3.2.2 Class B. The Class B members shall be the Declarant, its successors and assigns (including a mortgagee of record acquiring title to the Property of the Declarant either by foreclosure, deed in lieu of foreclosure or otherwise), who shall be entitled to three (3) votes for each vote held by a Class A member. The Class B membership shall be retired upon the conveyance by the Declarant of eighty percent (80%) of the Lots within the Sunbrook project or, at the option of Declarant, seven (7) years after the recordation of this Declaration, whichever occurs last.

3.3 Dissolution. In the event of the permanent dissolution of the Property Owners Association for whatever reason, any Lot Owner may petition the District Court of the Fifth Judicial District, Washington County, Utah, for the appointment of a Receiver to manage the affairs of the dissolved Property Owners Association and the Common Property in place and instead of the Property Owners Association and to make such provisions as may be necessary for the continued management of the affairs of the dissolved Property Owners Association and the Common Property.

4. COVENANT FOR MAINTENANCE

4.1 The Property Owners Association shall at all times maintain the Common Property in good condition and repair. In the event of dissolution of the Property Owners Association, the Owners of Lots shall become responsible for the obligations of the Property Owners Association for maintaining the Common Property in good condition and repair, and each Owner shall be responsible for such maintenance to the extent of such Owner's voting interest or membership in the Property Owners Association as set forth in Articles of Incorporation of Sunbrook Property Owners Association, Inc.

4.2 The Property Owners Association shall not repair and maintain the Lot Owners' property; provided, however, the Property Owners Association hereby reserves the right to care for vacant and unimproved and unkept improved Lots (including but not limited to lake banks abutting Lots) within Sunbrook, to remove and destroy tall grass, undergrowth, weeds and rubbish therefrom and any unsightly and obnoxious thing therefrom, and to do any other things and perform any labor necessary or desirable in the judgment of the Board of Directors of the Property Owners Association to keep the Lot(s) and Sunbrook neat and in good order, and to charge the same against the Owner of said Lot or Lots, which charge shall be a lien

on the Lot or Lots which may be foreclosed and shall include the Property Owners Association's attorney fees and other costs in connection with said foreclosure.

4.3 The area between the curb and the sidewalk (within the public right-of-way) on any public street shall be planted with grass and a sprinkler system installed to irrigate the same by the Lot Owner. It shall be the responsibility of each Lot Owner to maintain that property between Lot Owner's front property line and the street curbing.

5. COVENANT FOR MAINTENANCE ASSESSMENTS.

5.1 Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned in a recorded subdivision within Sunbrook, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Property Owners Association: (1) annual assessments or charges and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such assessment is made. The lien described herein arises by the Lot Owner's acceptance of the deed to the Lot and shall be deemed to relate back to the time of the filing of this Declaration. The lien rights described herein shall therefore constitute a valid pre-existing lien and the Lot Owner shall take title to the Lot subject to said lien, except where otherwise provided in this Declaration. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

5.2 Purpose of Assessment. The assessments levied by the Property Owners Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents of Sunbrook, and for the improvement and maintenance of the Common Property.

5.3 Declarant's Assessment Guaranty. The Declarant guarantees to initial purchasers of Lots that the monthly assessments due from such initial purchasers of Lots for items of common expenses of the Property Owners Association will not exceed the amount therefor reflected in the initial budget for the Property Owners Association which is provided to such purchasers by the Declarant during the first calendar year after the conveyance of the first Lot by the Declarant. This guaranty shall only be in force until the earlier of (1) the date upon which the Board of Directors of the Property Owners Association are elected by Lot Owners other than the Declarant or (2) such earlier date as Declarant elects to terminate this guaranty and pay his proportional share of assessments for common expenses of the Property Owners Association based upon the number of Lots owned by Declarant. During the period of time this guaranty is in force and effect the Declarant, as Owner of such Lots as are owned by him, shall be relieved from the obligation of paying his pro rata share of assessments for common expenses of the Property Owners Association, but instead shall be obligated to pay to, or for the benefit of, the Property Owners Association all sums in excess of sums due from all Lot Owners other than the Declarant which are necessary to pay the actual expenses of the Property Owners Association.

5.4 Notice and Quorum for Any Action Authorized under Section 5.3. Written notice of any meeting called for the purpose of taking any action authorized under Section

5.3 shall be sent to all members not less than twenty (20) days, nor more than sixty (60) days, in advance of the meeting. At the first such meeting called, the presence of sixty percent (60%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent 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.

5.5 **Special Assessment for Capital Improvement.** In addition to the annual assessments authorized above, the Property Owners Association, through its Board of Directors, may levy in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repaving, repair or replacement of a capital improvement upon the Common Property including fixtures and personal property related thereto, if any, provided that any such assessment shall have the assent of a majority of the votes of the entire membership of the Board of Directors at a meeting called for this purpose, notice of which meeting shall be sent to all members of the Property Owners Association at least thirty (30) days in advance thereof.

5.6 **Rate of Assessment.** Both annual and special assessments must be fixed at a uniform rate for all Lots, subject to the rights of the Declarant as stated in Section 5.3 of this Article 5.

5.7 **Date of Commencement of Annual Assessments; Due Dates.** The assessments provided for herein shall commence as to all Lots on the first day of the month following conveyance of each such Lot to the purchaser thereof. The first annual assessment shall be adjusted according to the number of months remaining in the Association's fiscal year. The Board of Directors of the Property Owners Association shall fix the amounts of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Lot Owner subject thereto. The due dates shall be established by the Board of Directors. The assessments, at the election of the Property Owners Association, may be collected on an annual, semi-annual, quarterly or monthly basis. The Property Owners Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an Officer of the Property Owners Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Property Owners Association as to the status of the assessments on a Lot is binding upon the Property Owners Association as of the date of its issuance. The Property Owners Association may delegate to a mortgage company, financial institution, or a management company the duty of collection of assessments.

5.8 **Effect of Non-Payment of Assessment; Remedies of the Property Owners Association.** If any assessment is not paid within fifteen (15) days after the due date, a late fee of Twenty-Five Dollars (\$25.00) shall be charged. Any assessment not paid within thirty (30) days of the due date shall bear interest from the due date at the rate of eighteen percent (18%) per annum. The Property Owners Association may, at its election, bring an action at law against the Lot Owner personally obligated to pay the same and/or foreclose the lien against the subject Lot. No Lot Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Property, Limited Common Property, or abandonment of his Lot.

5.9 **Subordination of the Lien to Mortgages.** The lien of the assessments for which provision is herein made, as well as in any other Article in this Declaration, shall be subordinate to the lien of any first mortgage of record which is perfected by recording prior

to the sale or transfer of such Lot by deed in lieu of foreclosure of such Lot or pursuant to a decree of foreclosure, and in any other proceeding in lieu of foreclosure of such mortgage; provided, however, that any such Lot shall be liable, following the sale, for a pro rata share of any unpaid assessments against such Lot accruing prior to such sale, in common with all other Lots. No sale or other transfer shall relieve the owner of any Lot from liability for any assessments thereafter becoming due nor from the lien of any such subsequent assessment.

5.10 Effect of Foreclosure of Assessment Lien. Foreclosure of the assessment lien shall be deemed subordinate to, and shall not operate to effect the impairment of, the lien of any institutional first mortgage now or hereafter placed upon such Lot, or the acceptance of a deed in lieu thereof, except where otherwise provided in this Declaration.

5.11 Exempt Property. All properties dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Utah shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

6. STAGE DEVELOPMENTS AND ANNEXATION OF PROPERTY.

Additional property and Common Property may be annexed to Sunbrook with the affirmative vote of two-thirds (2/3) of the votes of the Property Owners Association. Such annexation shall become effective upon the recording of an amendment, approved by Washington County, to this Declaration in the Official records of Washington County, Utah.

7. USE RESTRICTIONS

Use of the Common Property, Limited Common Property, and the Lots shall be in accordance with the following provisions so long as the Property Owners Association exists, and these restrictions shall be for the benefit of and enforceable by all Lot Owners and members of the Property Owners Association.

7.1 Pets. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any Lot, part or portion of Sunbrook, except that dogs, cats or other domesticated household pets may be kept in a residence constructed on a Lot, provided that said pets are not kept to be bred, boarded or maintained for commercial gain, and subject to the reasonable rules and regulations adopted by the Board, and the right of the Board to direct the Lot Owner to remove the pet from the Lot if the Board determines the pet(s) to be a nuisance. No outside dog houses or dog runs are allowed.

7.2 Nuisance. No Lot Owner shall make or permit any noises that will disturb or annoy the occupants of any of the Lots or do or permit any noxious or offensive activity on any Lot, part or portion of Sunbrook which will interfere with rights, comfort or convenience of other Lot Owners.

7.3 Commercial and Recreational Vehicles. No boats, trailers, buses, motor homes, campers or trucks shall be parked or stored upon the Common Property or a Lot, except within an enclosed garage, unless it is a commercial vehicle in the process of being loaded or unloaded. No boats, trailers, buses, motor homes, trucks or campers shall be parked for longer than 24 hours on any street within any subdivision within Sunbrook.

7.4 Litter and Garbage Collection. No Lot Owner shall sweep or throw from any structure on his Lot any dirt or other materials or litter. No garbage, trash, refuse, or

rubbish shall be deposited, dumped, or kept on any part of the Lot except in closed containers, dumpsters, or other sanitary garbage collection facilities, and proper-sized, closed containers or closed plastic bags shall be placed for pickup in accordance with any rules and regulations promulgated by the Property Owners Association. Garbage that is placed for pickup shall be located near the roadways contiguous to the Lot but shall only be left outside the night before scheduled pickup and shall be subject to such additional rules and regulations as the Property Owners Association may from time to time promulgate.

7.5 Notices. No sign, advertisement, notice, lettering, or descriptive design shall be posted, displayed, inscribed, or affixed to the exterior of any structures located on any Lot. No "For Sale" or similar signs or notices of any kind shall be displayed or placed upon any part of a vacant Lot by Lot Owners other than approved by the Declarant or the Property Owners Association. Any sign approved for display shall be no larger than six (6) square feet. However, the Declarant may display any sign which it deems, in its sole discretion, to be necessary.

7.6 Interruption of Drainage. No change in the elevation of a Lot shall be made, and no change in the condition of the soil or level of the land of a Lot shall be made which results in any permanent change in the flow and drainage of surface water which the Property Owners Association, in its sole discretion, considers detrimental. The Property Owners Association may cause the property to be returned to its initial condition at the expense of the Lot Owner.

7.7 Mining. No drilling, mining, or quarrying operations or activities of any kind shall be undertaken or permitted to be undertaken on any part of Sunbrook.

7.8 Fences. No fences or walls shall be allowed on any Lot without the prior written consent thereto from the Property Owners Association and the Architectural Control Committee of the Property Owners Association.

7.9 Lawful Use. No immoral, improper, offensive, or unlawful use shall be made of Sunbrook or any property operated by the Property Owners Association nor any part of it; and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction shall be observed.

7.10 Recreational Use of Lakes. The lakes within the Sunbrook project shall not be used for swimming or for boating of any kind.

7.11 Temporary or Other Structures. No structure of a temporary nature, and no trailer, bus, basement, outhouse, tent, shack, garage, or other out building shall be used at any time as a residence, either temporarily or permanently, nor shall any such structures be erected or placed on any Lot at any time. No old or second-hand structures shall be moved onto any of said Lots, it being the intention hereof that all dwellings and other buildings to be erected on said Lots within Sunbrook shall be new construction of good quality, workmanship, and materials.

7.12 Antennae. No radio, television or other antennae of any kind or nature, or device for the reception or transmission of radio, microwave or similar signals, including satellite dishes, shall be permitted on any Lot.

7.13 Clothes Drying. No portion of any Lot shall be used as a drying or hanging area for laundry of any kind, it being the intention hereof that all such facilities be provided within the dwelling to be constructed on each Lot.

7.14 **Guests.** The Owners of Lots shall be fully responsible for the activities and actions of their guests, invitees, tenants, or visitors and shall take all action necessary or required to insure that all such persons fully comply with the provisions of this Declaration, and all rules and regulations of the Property Owners Association.

8. **ARCHITECTURAL CONTROL.**

The Board of Directors of the Property Owners Association is authorized to appoint an Architectural Control Committee in accordance with the provisions of the By-Laws.

8.1 No building, fence, wall, or other structures shall be commenced, erected, or maintained by any Lot Owner, nor shall any exterior addition or change or alteration therein, including a change in the building exterior paint color, be made nor shall any improvements be made within the Lot Owner's property line until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to the harmony of external design and location in relation to surrounding structures and topography by the Architectural Control Committee.

8.2 In order to promote a harmonious community development and protect the character of Sunbrook, the Architectural Control Committee shall, upon recordation of that subdivision plat, adopt a set of Architectural Guidelines for each subdivision within Sunbrook. The provisions of that particular set of Architectural Guidelines shall be binding upon the Lot Owners in said subdivision, and are incorporated herein by reference.

8.3 In the event said Board of Directors, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval of the Board will not be required and this Article will be deemed to have been fully complied with.

9. **OBLIGATION TO BUILD WITHIN A SET PERIOD OF TIME.** Every Lot Owner shall have three years, from the date of recording of the deed of conveyance from Declarant to that Lot Owner, to commence construction of a single family residence on any Lot within Sunbrook. Once construction has started on a single family residence, it shall be completed within six (6) months. To commence construction, a Lot Owner shall have obtained final approval of the Architectural Control Committee, a building permit from the City of St. George, and shall have started the construction of the foundation and/or cement slab upon which the residential dwelling shall be constructed. In the event a Lot Owner fails to commence construction within the time period set forth in this paragraph the Lot Owner may apply in writing to the Architectural Control Committee within said three (3) year period for an extension of time to commence construction, setting forth the period of time requested and the reason for said extension. The Architectural Control Committee must act upon said request within thirty (30) days after receipt of the request shall be deemed granted. However, if the Architectural Control Committee does not grant said extension, the Declarant, at its option, may repurchase said Lot, by notifying the Lot Owner of its intention to repurchase in writing, and tendering to the Lot Owner the amount of the gross sales price received by the Declarant from the first lot purchaser of said Lot, less the amount, if any, required to satisfy any taxes, assessments, liens, charges or encumbrances accruing or encumbering said Lot after conveyance of the same to the Lot Owner.

10. **BUILDER APPROVAL.** All residential dwellings in Sunbrook shall be constructed by a Preferred Builder or an Approved Builder as those terms are defined in the Architectural Guidelines applicable to a particular subdivision within Sunbrook. No residential dwelling shall be constructed by a Lot Owner, his agent or employee, who is not

a Preferred Builder or an Approved Builder as those terms are defined in the Architectural Guidelines applicable to the subdivision in which the Lot is located.

11. GOLF OVERFLIGHT EASEMENT. Declarant hereby dedicates and grants to the public a perpetual golf overflight easement over, across and upon all Common Property and all Lots located within Two Hundred (200) feet (at any point) of the Sunbrook Golf Course perimeter legal description. Furthermore, all Lot Owners within Sunbrook, their guests and invitees, agree to indemnify Declarant (its agents or employees), the golf course architect and the City of St. George (its agents and employees) from personal injury or property damage resulting from any person or property being struck by a golf ball within the golf overflight easement herein described.

12. UTILITY SERVICE.

12.1 Declarant has and will dedicate certain portions of Sunbrook, through which easements are now and may hereinafter be granted, for use by all utilities, public and private, for the construction and maintenance of their respective facilities servicing the lands described in this Declaration. Declarant hereby grants to such utilities, jointly and severally, easements for such purpose. Such easements may, but are not required to, be dedicated by recorded plat or other instrument. Additional easements may be granted by the Property Owners Association for utility or recreational purposes in accordance with the requirements of this Declaration.

12.2 The median strip located within Sunbrook Drive (within the public right-of-way) shall be considered Common Property and shall be planted with grass and trees, and shall be maintained by the Property Owners Association.

13. GENERAL PROVISIONS.

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

13.2 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

13.3 Duration; Amendment. The covenants and restrictions of this Declaration shall run with and bind the property subject hereto for a term of forty (40) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of twenty (20) years. This Declaration may be amended by an instrument executed by the holders of two-thirds (2/3) of the voting interest of membership in the Property Owners Association. Notwithstanding the above, the Declarant, its successors and/or assigns shall have the right, until December 31, 1999, to amend this Declaration. Any amendment must be recorded, and the portion of any plat containing Common Property or area may not be vacated in whole or in part unless the entire plat is vacated.

13.4 Duty to Repair Structure. In the event a structure on a Lot is damaged, through an act of God or other casualty, the Owner of the Lot shall promptly cause the structure to be repaired or rebuilt substantially in accordance with the original architectural plans and

specifications. It shall be the duty of the Property Owners Association to enforce such repair and rebuilding of the structures to comply with this responsibility.

13.5 Easement for Enforcement. The Property Owners Association is granted an easement over Sunbrook, subject to this Declaration, by each Lot Owner for the purpose of enforcing the provisions of this Declaration, and may go upon the Lot of each Lot Owner to remove or repair any existing cause of a violation hereof. If the Lot Owner to cure the violation fails to do so, the Property Owners Association shall have the right to cure such violation, and all costs incident thereto, including court costs and reasonable attorney's fees, shall become the personal obligation of the Lot Owner and be a lien against his Lot in the same fashion as if said sums represented monies due for unpaid assessments.

14. COMPLIANCE AND DEFAULT.

Each Lot Owner shall be governed by and shall comply with the terms of this Declaration, all exhibits hereto, the Articles of Incorporation and By-Laws of the Property Owners Association, and the regulations adopted pursuant to those documents, and all of such as they may be amended from time to time. Failure of a Lot Owner to comply with such documents and regulations shall entitle the Declarant, the Property Owners Association, and/or other Lot Owners to the following relief:

14.1 Negligence. A Lot Owner shall be liable for the expense of any maintenance, repair, or replacement rendered necessary by his negligence or by that of any member of his family or his or their guests, employees, agents, or lessees.

14.2 Costs and Attorneys' Fees. In any proceeding arising because of an alleged failure of a Lot Owner to comply with the terms of this Declaration, the Articles of Incorporation and the By-Laws of the Property Owners Association, any exhibit to this Declaration, or any rules or regulations adopted pursuant to any of the foregoing, and all other such documents, the Association shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be awarded by the court including costs and fees on appeal or certiorari.

14.3 No Waiver of Rights. The failure of the Declarant, the Property Owners Association, or any Lot Owner to enforce any covenant, restriction, this Declaration, the Articles of Incorporation of the Property Owners Association, shall not constitute a waiver of the right to do so thereafter.

IN WITNESS WHEREOF, the Declarant has executed this Declaration the 11th day of December, 1990.

SUNBROOK DEVELOPMENT, LTD., a Utah limited partnership,

WPB UTAH ASSOCIATES, INC., a Florida corporation, General Partner

By Frank A. Allen
Frank A. Allen, President

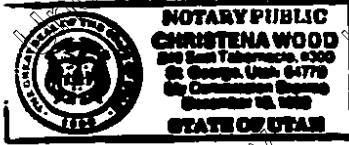
Dennis R. Carter

STATE OF UTAH)
) : ss.
COUNTY OF WASHINGTON)

The foregoing Sunbrook Estates Declaration of Covenants and Restrictions was acknowledged before me this 14th day of December, 1990, by FRANK A. ALLEN, as President of WPB Utah Associates, Inc., a Florida corporation, sole general partner of Sunbrook Development, Ltd., a Utah limited partnership.

Christena Wood
NOTARY PUBLIC
Residing at St. George, Utah

My Commission Expires:
12-10-92



STATE OF UTAH)
) : ss.
COUNTY OF WASHINGTON)

The foregoing Sunbrook Estates Declaration of Covenants and Restrictions was acknowledged before me this _____ day of December, 1990, by DENNIS R. CARTER.

NOTARY PUBLIC
Residing at _____

My Commission Expires:

EXHIBIT A

LEGAL DESCRIPTION:

BEGINNING AT A POINT SOUTH 00°57'03" EAST, 594.36 FEET ALONG THE QUARTER SECTION LINE AND NORTH 90°00'00" EAST, 44.32 FEET FROM THE NORTH QUARTER CORNER OF SECTION 27, TOWNSHIP 42 SOUTH, RANGE 16 WEST, SALT LAKE BASE & MERIDIAN, AND RUNNING THENCE NORTH 24°01'03" EAST, 147.44 FEET; THENCE SOUTH 84°50'58" EAST, 90.00 FEET; THENCE NORTH 76°40'47" EAST, 107.50 FEET; THENCE SOUTH 09°38'33" EAST, 102.10 FEET; THENCE SOUTH 01°02'22" EAST, 09.70 FEET; THENCE SOUTH 75°26'29" EAST, 168.17 FEET; THENCE SOUTH 71°17'13" EAST, 107.30 FEET; THENCE SOUTH 36°24'10" WEST, 0.42 FEET; THENCE SOUTH 60°48'48" EAST, 543.30 FEET; THENCE NORTH 90°00'00" EAST, 372.00 FEET; THENCE SOUTH 71°53'21" EAST, 359.48 FEET; THENCE SOUTH 63°39'59" EAST, 13.73 FEET; THENCE SOUTH 52°46'58" EAST, 235.45 FEET; THENCE SOUTH 61°18'36" EAST, 55.18 FEET; THENCE NORTH 50°07'47" EAST, 9.04 FEET; THENCE SOUTH 39°53'03" EAST, 296.06 FEET; THENCE SOUTH 39°31'03" EAST, 353.76 FEET; THENCE SOUTH 40°33'16" WEST, 334.50 FEET; THENCE NORTH 57°05'41" WEST, 285.67 FEET; THENCE NORTH 40°36'36" WEST, 402.10 FEET; THENCE NORTH 45°39'57" WEST, 324.05 FEET; THENCE NORTH 71°01'55" WEST, 182.39 FEET; THENCE NORTH 90°00'00" WEST, 109.00 FEET TO THE EASTERLY BOUNDARY OF A PROPOSED 50 FOOT WIDE PUBLIC STREET; THENCE ALONG THE EASTERLY BOUNDARY OF SAID STREET THE FOLLOWING 6 COURSES: SOUTH 00°00'00" EAST, 68.00 FEET; THENCE CURVING TO THE RIGHT ALONG THE ARC OF A 365.00 FOOT RADIUS CURVE, THROUGH A CENTRAL ANGLE OF 47°36'43", AN ARC LENGTH OF 303.31 FEET; THENCE SOUTH 47°36'43" WEST, 217.29 FEET; THENCE CURVING TO THE LEFT ALONG THE ARC OF A 349.36 FOOT RADIUS CURVE, THROUGH A CENTRAL ANGLE OF 82°47'33", AN ARC LENGTH OF 504.83 FEET; THENCE SOUTH 35°10'50" EAST, 83.45 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SUNBROOK DRIVE; THENCE SOUTH 54°49'10" WEST, 50.00 FEET; THENCE DEPARTING SAID NORTHERLY RIGHT-OF-WAY LINE TO FOLLOW THE WESTERLY BOUNDARY OF SAID PROPOSED 50 FOOT WIDE PUBLIC STREET THE FOLLOWING 6 COURSES: NORTH 35°10'50" WEST, 83.45 FEET; THENCE CURVING TO THE RIGHT ALONG THE ARC OF A 399.36 FOOT RADIUS CURVE, THROUGH A CENTRAL ANGLE OF 82°47'33", AN ARC LENGTH OF 577.08 FEET; THENCE NORTH 47°36'43" EAST, 217.29 FEET; THENCE CURVING TO THE LEFT ALONG THE ARC OF A 315.00 FOOT RADIUS CURVE, THROUGH A CENTRAL ANGLE OF 47°36'43", AN ARC LENGTH OF 261.76 FEET; THENCE NORTH 00°00'00" EAST, 68.00 FEET; THENCE DEPARTING THE WESTERLY BOUNDARY OF SAID PROPOSED 50.00 WIDE STREET NORTH 74°13'56" WEST, 177.31 FEET; THENCE NORTH 62°40'21" WEST, 210.89 FEET; THENCE NORTH 60°48'48" WEST, 358.31 FEET; THENCE NORTH 83°40'53" WEST, 220.53 FEET; THENCE SOUTH 77°35'33" WEST, 255.98 FEET; THENCE NORTH 35°52'58" WEST, 239.55 FEET TO THE POINT OF BEGINNING.

CONTAINING 23.139 ACRES OF LAND.

0375735 Bk 0583 Pg 0655