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DECLARATION OF RESTRICTIVE COVENANTS AND CONDITIONS
AFFECTING THE REAL PROPERTY KNOWN AS
WESTVIEW ESTATES

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PATSY CUTLER - IRON COUNTY RECORDER
2004 MAR 03 14:16 PM FEE \$107.00 BY PTC
REQUEST: SD UTAH TITLE CO/CEDAR CITY

WITNESSETH:

WHEREAS, the undersigned, Northridge at Cross Hollow Development, Inc., a Utah corporation, is the sole owner and developer of the real property herein described, which is situated in Iron County, State of Utah, and more particularly known as the "Westview Estates" Subdivision. Northridge at Cross Hollow Development, Inc., is herein referred to as the "Declarant"; and

WHEREAS, Declarant desires to divide the subject property and to convey it subject to the restrictions and covenants herein contained between itself and the several purchasers of the subject property, and thereafter to impose the restrictive covenants and conditions between and among the several purchasers; and

WHEREAS, the Declarant may expand the Westview Estates Subdivision onto additional land and desires to preserve a method to subject the additional land to the effect of this Declaration; and

WHEREAS, the property subject to these restrictive covenants is located in Iron County, State of Utah, and is more particularly described as follows:

See Exhibit "A" attached hereto and incorporated herein by this reference.

The property will be divided and sold in parcels. Each of the separate parcels shall be subject to the covenants, restrictions and agreements herein contained; and

NOW THEREFORE, hereby declares and decrees as follows:

SECTION I

CREATION OF COVENANT

The property herein described shall be hereafter held, sold, conveyed, leased, encumbered, improved and occupied subject to the easements, restrictions, covenants and conditions hereinafter set forth, which shall be covenants running with the land in perpetuity and which shall be binding upon all persons who acquire any interest therein, and between Declarant and the several owners and purchasers, and between and among the several owners and purchasers themselves, and the heirs, successors and assigns of each. The acceptance of any deed or conveyance by any grantee to the property herein described shall constitute their covenant and agreement to abide by and be bound by this Declaration of Restrictive Covenants and Conditions, to accept and hold the property subject thereto, to be binding upon their heirs, executors, administrators, successors and assigns in perpetuity.

SECTION II

PURPOSES AND DEFINITIONS

1. **Purposes.** This Declaration of Restrictive Covenants and Conditions (hereafter sometimes "Restrictive Covenants") is placed of record as a series of covenants running with the land, as herein set forth, for the purpose of establishing and preserving a quality residential subdivision. These Restrictive Covenants shall insure that the highest quality building standards

will be preserved, that the Property will be kept free and clear of any rubbish, trash, noxious or offensive activity, and that the owners of lots within the Subdivision will be assured of peaceful enjoyment of their Lot, and the other Lots within the Subdivision, as single family residential dwellings. Any person who purchases any lot within the Subdivision, after the date of recording of these Restrictive Covenants, takes title to their property subject to and with a commitment to abide by each of the covenants and conditions herein contained.

2. Definitions.

"Additional Land" shall mean the property described on Exhibit B, and which may be made a part of the Subdivision by expansion as set forth in Section VII.

"Association" shall mean the Westview Estates Owners Association, Inc., a Utah non-profit corporation, organized to be the association referred to herein. Association shall also mean Declarant, in regard to its actions taken prior to the formation of the non-profit corporation, as set forth in Section VIII, below.

"Architectural Control Committee" shall mean the committee created pursuant to Section V hereof.

"Lot" shall mean any of the designated lots within the Subdivision.

"Owner" shall mean any person or entity, or combination thereof, including Declarant, at any time owning a Lot within the Subdivision, as shown on the records of Iron County, State of Utah. The term "Owner" shall not refer to any mortgagee, unless the mortgagee has acquired title for other than security purposes.

"Property" shall mean the property described in the recitals.

"Subdivision" shall mean the property as divided into separate building lots.

SECTION III

USE AND OCCUPANCY

1. The Lots into which the Property shall be divided shall be used only for single family residential dwellings. There shall be no multiple unit dwellings of any kind, including but not limited to basement apartments, duplexes or apartment buildings. No condominiums of any kind are allowed. No time-sharing of any kind is allowed.

2. Each dwelling shall be occupied only by a single family. No one shall be entitled to reside in a residence constructed on a Lot unless they are members of the immediate family therein residing, or are authorized foster children or wards. No boarding houses or other group housing for unrelated people of any kind is allowed, regardless of the method or structure of the occupancy arrangement.

3. No activity shall be conducted upon the Property, nor any improvements constructed thereon, which are or may become unsafe or hazardous to any person or property.

4. No automobiles, trailers, recreational vehicles, boats or other vehicles may be parked, kept or stored on streets within the Subdivision, overnight or otherwise. No automobiles, trailers, recreational vehicles, boats or other vehicles may be parked, kept or stored on the Lots unless they are in running condition, properly licensed, pass Utah safety inspection standards, and are being regularly used. In the event an inoperable motor vehicle remains upon any lot or road area for a period exceeding thirty (30) days, the Association may, pursuant to the recommendation of the Architectural Control Committee, assess a fine against the Lot Owner or

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remove inoperable motor vehicles after ten (10) days' written notice. The cost of such removal shall be paid by the lot owner, and if not paid shall attach as a valid lien in favor of the Association upon the recording of property notice.

5. No signs of any kind shall be displayed to public view on any Lot, except that each Owner may display one sign of not more than five (5) square feet advertising the property for sale. Anything contained herein notwithstanding, Declarant may, during the course of development of the Property and sale of Lots, place attractive signs of not more than 8' x 8' or 64 square feet in size on each Lot advertising the Lot during the construction and sales period, and one sign at the entrance of the Subdivision advertising the Lots and Subdivision, which will not exceed 8' x 8'. Any other sign for any other purpose must be approved by the Architectural Control Committee prior to its erection.

6. No animals, livestock or poultry of any kind, including but not limited to horses, llamas, cows, pigs, goats, chickens, ducks, or ostriches, shall be raised, bred or kept on the Property, or any Lot, excepting only domestic cats and dogs. No more than two dogs or two cats are allowed on the Property, and the Owner shall not own more than two dogs or two cats per Property, including adjacent Property under the same ownership, possession or control. No household pets may be kept for commercial purposes and all household pets are restricted to the Owner's premises or under the Owner's control by leash or otherwise. The Lot Owners are responsible for any damage caused by their dogs or cats to the animals on neighboring farms. Also, according to Iron County ordinances (Iron County Ordinance No. 131), if animals are found on adjacent farm property without the owner present, and the SUU Farm personnel feel

their livestock may be threatened, they have the right to destroy said animal and hold the owner responsible for damages and loss to said farm.

7. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No automobiles, trailers, boats, or other vehicles are to be stored on streets or front or side lots unless they are in running condition, properly licensed, and being regularly used, and that such uses are not offensive to adjoining property owners.

8. No Lot shall be used or maintained as a dumping ground for rubbish, excess building materials and concrete, yard waste, rocks, boulders, dead trees and limbs, etc. Any breach of this agreement will result in the Lot Owner being charged with the cost of cleanup of such materials.

9. All Lots shall be used and kept free from trash, rubbish, garbage or other waste, and the Property shall at all times be kept by the various Owners in a sightly and attractive manner.

10. All such waste shall be kept at all times in appropriate sanitary containers. Garbage containers shall at all times be stored out of prominent view and shall be kept in a clean and sanitary condition. No unsightly material or other objects are to be stored on any Lot in view of the general public. Any building materials or construction materials shall be neatly stacked and kept upon the Lot and shall not remain thereon for more than thirty (30) days following the completion of construction.

11. No open fires shall be allowed without a fire permit. Accumulations of dry underbrush, dead trees or any other combustible materials will not be allowed.

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12. No activity shall be carried on within the Subdivision, nor any improvements constructed thereon, which is or may become unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearm shall be discharged within the Subdivision and no outdoor fires shall be lighted except in a contained barbecue unit while attended and used for cooking purposes, or self-contained outdoor fireplaces.

13. All land use and all buildings constructed shall fully comply with all zoning and land-use ordinances and regulations applicable to the property, which include the land-use and zoning ordinances of the State of Utah and of Iron County. All grading shall be done so as to preserve or restore the drainage of the land and so as to comply with all flood control requirements of any applicable agency.

14. No Lot within the Property shall be divided or conveyed in part.

15. Easements for installation and maintenance of utilities and drainage are reserved, as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements or which may impede ingress and egress. The easement area of each Lot shall be maintained continuously by the Owner except for those improvements for which a public or utility company is responsible.

16. The purchaser of each Lot acknowledges that the Subdivision is adjacent to an Agricultural Protection Area which protects normal farming and ranching activities.

Furthermore, the lot owners understand that the adjacent Southern Utah University farm is in an Agricultural Protection Area (Utah Code Title 17, Chapter 41). This means that they are protected by Utah law to carry out normal farming and ranching activities as they see fit.

17. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any Lot. No derrick or other structure designed or used in boring for oil or natural gas shall be erected, maintained, or permitted upon any Lot.

18. No commercial enterprise of any description shall be conducted on any lot. This shall be construed to mean the raising and kenneling of dogs, cats and other pets for gain, the selling of goods, operating a business of any nature, except for an in-home business that uses the telephone or internet and no shipment by vehicular transportation or shipped directly from Owner's home by postal service, the storage of equipment, storage of inventory, or any other venture conducted in support of or in association with a venture conducted either for profit or charity. However, the developer or his assigns shall be permitted to maintain sales offices in the Subdivision until such time as all lots are sold.

19. Small hobby type gardens will be permitted; however, it is the duty of each Lot Owner to preserve as many trees and as much natural landscaping as possible. It is advised that Lot Owners may need to purchase additional water rights if gardens and landscape demand more water than originally allocated, as approved by the Water Users Association.

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SECTION IV

BUILDING RESTRICTIONS

1. **Architectural Control.** No building, fence, or wall shall be erected, altered, placed, or permitted to remain on any lot without prior written approval of plans and specifications therefor by the Architectural Control Committee, which is described fully in Section V, below. Said plans and specification shall show the location of the structure on the lot, materials to be used, external design, and location with respect to the topography and finish grade elevation. No fence, wall, swimming pool, or other construction shall be erected, placed, or altered on any lot without approval of the Architectural Control Committee.

2. **Dwelling Size.** No more than one detached single family dwelling, not to exceed two stories above ground and not more than a total of 19 feet above ground level, excluding roof, will be allowed on any lot. No single family unit shall be less than 1,100 square feet in size on the main level, exclusive of garages. Two-story or split-level styled homes may have a minimum of 750 square feet on the main level, provided that there is at least 1,400 square feet of living space above ground level. Basement living space will not be considered part of the total living space. Roof gables will have a minimum of 5' x 12' pitch. No flat roofs will be accepted. All dwellings shall have a private garage sufficient to park at least two (2) cars, but not more than four (4) cars. All garages shall be fitted with a door, which shall be closed, except for normal use.

3. **Outbuildings.** A garage or greenhouse shall be permitted on any lot. All outbuilding must be approved by the Architectural Control Committee, and must not detract from the architectural theme of the house. No outbuilding, including detached garage, shall be large

enough to overshadow the main dwelling in size and must conform to the general architectural theme of the primary residence. Other outbuildings and storage sheds shall be permitted with express permission and approval of the Architectural Control Committee.

4. **Building Location.** No building shall be located on any lot nearer to the front line than 30 feet therefrom, measured to the foundation of such building; or nearer than 30 feet to the rear lot line; nor nearer than 30 feet to a side lot line. For the purpose of this covenant, eaves, steps, and open porches shall not be considered as part of a building for the purpose of determining such distances. All other setbacks and other location requirements shall at all times be in accordance with the ordinances of Iron County and/or Cedar City Corporation.

5. **Temporary Structures.** No temporary buildings, structures, or improvements of any kind shall ever be erected or maintained on any of the Lots within the Property. Provided, however, that in a reasonable manner during construction, a general or subcontractor shall be entitled to keep a temporary construction trailer or portable building on the Property, however, said construction trailer or portable building cannot be used as a residence by any person during or after construction.

6. **Home Completion.** All buildings and structures approved for construction by the Architectural Control Committee shall be completed no later than one (1) year subsequent to the commencement of said construction. In the event a building or structure fails to be completed consistent with this section, the Association may, at the recommendation of the Architectural Control Committee, after sixty (60) days written notice to the owners, enter onto the property where buildings and structures are in violation and proceed to complete all reasonable and

necessary improvements, the cost of which shall attach as a valid lien against said property in favor of the Association, and shall be paid upon demand by the Owner.

7. **Landscaping.** All front Lots, from the front property line back to the front of the home, must be totally landscaped within 12 months after the completion of the home or the occupancy of any dwelling on said Lot. Although landscaping that requires minimal usage of water is acceptable, all Lots must be landscaped and be free of weeds.

8. **Walls, Fences, and Hedges.** All fences and walls shall be constructed of new material which enhances the appearance of the landscape. The use of other types of fencing and walls, such as pipe, cement, or cinder block used for decorative fencing, backyards, or corrals is subject to final approval. All walls and fences shall be kept in good repair, and no fence, wall, or hedge shall exceed an overall height, as measured from the top of the footing to the top of the fence, wall, or hedge, in excess of six (6) feet. No walls, fences, or hedges may exceed an overall height of four (4) feet in front yard setback areas. All fences or walls on lots with drainage or water flow must not hinder or alter that natural flow or drainage.

9. **Sight Distance at Intersections and Corners.** No fence, wall, hedge, or shrub planting which obstructs sight lines at an elevation of two (2) feet above the roadways shall be placed or permitted to remain on any lot at street corners or curves within the triangular area formed by the front and side lines of such lot. Sight line limitations shall apply on any lot within forty (40) feet from the intersections of a street property line with the edge of a driveway or alley.

10. **Soil Condition.** Soil conditions may exist that require special compaction techniques. Copy of existing soil report is available from the Declarant upon request.

11. No pre-fabricated, pre-built, manufactured or modular dwellings may be moved onto or constructed on the Property. All dwellings shall be of stick-build, on-site construction of good quality workmanship and materials. For purpose of this section, mobile or manufactured home is defined as residential dwelling unit designed for transportation on streets or highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks, or other temporary or permanent foundations, connections to utilities, and the like.

12. Hot tub pumps, swimming pool pumps and filtration systems, satellite dishes, and similarly exposed mechanical equipment, shall be aesthetically concealed from view on all sides and shall be shielded in such a manner as to minimize noise and safety concerns.

13. All mailboxes and mailbox holders shall adhere to the applicable specifications of the U.S. Postal Service and located as directed by the U.S. Postal Service. Each Lot Owner shall be responsible for the maintenance and replacement of his or her mailbox so as to keep it in a state of repair at all times.

SECTION V

ARCHITECTURAL CONTROL COMMITTEE

The Declarant shall establish an Architectural Control Committee for the purpose of approving the building and site plans for all construction within the Subdivision. No dwelling or any other structure shall be constructed without the approval of the Architectural Control Committee. The Architectural Control Committee shall consist of three (3) members, to be

selected by the Declarant, with the members to be chosen for varying terms so as to achieve staggered terms and continuity of membership of such committee. When seventy-five percent (75%) of the Lots in the Subdivision have been sold by Declarant, said plans and specifications shall be approved by an Architectural Control Committee approved by a majority of Owners of Lots in the Subdivision herein described, and only Owners of said Lots shall be privileged to vote for said Architectural Control Committee. The Declarant shall have the right to appoint members of the Architectural Control Committee until such time as seventy-five percent (75%) of the Lots in the Subdivision have been sold by the Declarant.

A. Prior to the commencement of any excavations, construction, remodeling, or adding to any structure, theretofore completed, there shall first be filed with the Architectural Control Committee three (3) complete sets of building plans and specifications therefor, together with a block or plot plan indicating the exact part of the building site the improvements will cover, and said work shall not commence unless the Architectural Control Committee shall endorse said plans as being in compliance with these covenants and are otherwise approved by the Committee.

B. No property owner shall apply for a building permit from Iron County until having first obtained written approval from the Architectural Control Committee.

C. No construction, change, modification, or alteration for which plans are to be submitted to the Architectural Control Committee pursuant to paragraph A, immediately above, shall commence until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same have been submitted to and approved in

writing by the Architectural Control Committee as to the harmony of the external design and location in relation to surrounding structures and topography, size, estimates of cost, and other such factors as the Architectural Control Committee considers necessary, appropriate, and relevant to maintain property values of nearby properties, keeping in mind the property owner must be allowed the right to quiet enjoyment. In the event the Architectural Control Committee fails to approve or disapprove such design and location plan within fifteen (15) days after such plans and specifications have been submitted to it, approval will not be required and full compliance with this section of the Declaration will be deemed to have occurred.

D. In spite of the foregoing provisions, the Architectural Control Committee shall have no affirmative obligation to be certain that all elements of the design comply with the restrictions contained in this Declaration, and no member of the Architectural Control Committee shall have any liability, responsibility, or obligation, whatsoever for any decision or lack thereof, in carrying out of duties as a member of such committee. Such committee and its members shall have only an advisory function, and the sole responsibility for compliance with all of the terms of this Declaration shall rest with the Owner. Each Owner agrees to save, defend, and hold harmless the Architectural Control Committee and each of its members on account of any activities of the Architectural Control Committee relating to such Owner's Lot or buildings to be constructed on his or her Lot.

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E. The Architectural Control Committee, if it observes deviations from or lack of compliance with the provisions and this declaration, shall report such deviations or lack of compliance to the Board of Directors of the Association for appropriate action.

F. The approval of building plans and specifications shall not be unreasonably withheld by the Committee. The Committee shall, however, have the sole and absolute discretion to evaluate plans and specifications for the purpose of assuring that the proposed buildings and fences are consistent with the use contemplated by these Restrictive Covenants, that the plans and specifications are in all particulars consistent with applicable laws and ordinances, and that the proposed construction is aesthetically consistent with the objectives herein set forth. Any Owner or builder may not, however, rely on the opinion of the Architectural Control Committee as to whether the plans meet the applicable laws and municipal ordinances in place at the time of construction. It shall be the sole and exclusive responsibility of the owners of the lots within the Subdivision to be sure that all laws and ordinances are complied with in connection with their construction.

G. By way of example and not by way of limitation, the following matters, among others, must be approved by the Architectural Control Committee before such uses will be permitted in the subdivision: use of antennae, which have the capability of interfering with radio and television signals received by others; use of solar devices; use of exterior lighting which may be offensive to neighbors; use of any structure which would tend to

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block the view of others in the normal use of their property; and permissible paint colors to be used on structures in the subdivision.

SECTION VI

GENERAL PROVISIONS

1. **Duration of Restrictions.** This Declaration of Restrictive Covenants and Conditions shall continue and remain in full force and effect at all times against said property and the owners thereof, subject to the right of change or modification provided for in this Article, for a period of twenty-five (25) years, and shall as then in force be automatically continued for a period of twenty (20) years, and thereafter for successive periods of twenty (20) years each without limitations, unless changed, modified or extinguished as herein provided. This Declaration of Restrictive Covenants and Conditions may be changed, modified or extinguished from time to time if the then record owners of more than seventy-five percent (75%) of said property, and seventy-five percent (75%) of the mortgagees or beneficiaries under recorded first mortgages or trust deeds, with one (1) vote per lot and not owner (exclusive of streets, parks, and open spaces) place a written agreement on record in the office of the Recorder of Iron County, Utah. Upon such recording, the terms and conditions herein shall thereafter be changed, modified, or extinguished in whole or in part, as therein set forth.

2. **Enforcement.** Each and all of said conditions, covenants, and reservations is and are for the benefit of each owner of land (or any interest therein) in said property, and they and each thereof shall inure to and pass with each and every parcel of said property and shall apply to and bind the respective successors in interest of said Declarant. These restrictions, conditions, and

covenants shall be covenants of equitable servitude. The protection herein granted, and the restrictive covenants and Conditions herein set forth, may be enforced by any other lot owner in the subdivision or the Owners Association. No breach here shall affect or impair the lien of any bona fide mortgage or deed of trust which shall have been given in good faith and for value; provided, however, that any subsequent owner of said property shall be bound by the said conditions and covenants, whether obtained by foreclosure or at a trustee's sale or otherwise. Any breach hereof may be enjoined, compensated with money damages, or remedied in any other way provided by law or in equity. In any action regarding the enforcement hereof, the prevailing party shall be entitled to recover from the other all expenses, costs and attorneys fees incurred therein.

3. **Compliance with Laws.** In addition to compliance with all the terms and conditions of these covenants and restrictions, the property owners of this subdivision shall be subject to and shall comply with the rules, regulations, and laws passed or otherwise placed into effect by Iron County, State of Utah, and all governmental agencies which have jurisdiction over the properties affected by this subdivision.

4. **Assignment of Powers.** Any and all rights and powers of the Declarant herein contained may be delegated, transferred, or assigned. Wherever the term "Declarant" is used herein, it includes assigns or successors in interest of the Declarant.

SECTION VII

ADDITIONAL LAND

1. **Annexation by Declarant.** Declarant may expand the Property subject to this Declaration by the annexation of all or part of the Additional Land. (See Exhibit A hereto for description of the Additional Land.) The annexation of such land shall become effective upon the recordation in the office of the County Recorder of Iron County, Utah, of a Supplementary Declaration which (i) describes the land to be annexed, (ii) declares that the annexed land is to be held, sold, conveyed, encumbered, leased, occupied and improved as part of the Property subject to the Declaration, (iii) sets forth such additional limitations, restrictions, covenants, and conditions as are applicable to the annexed land, and (iv) is signed by the Declarant or their successors and assigns. When such annexation becomes effective, the annexed land shall become subject to this Declaration. Such annexation may be accomplished in one or more annexations without limitation as to size or location within the Additional Land.

2. **Limitation on Annexation.** Declarant's right to annex said land shall be subject to the following limitations, conditions and rights granted to the Declarant:

(a) The annexed land must be part of the land which is Additional Land as of the date of this Declaration, as described at Exhibit A hereto.

(b) Declarant's right to annex land shall expire ten (10) years after this Declaration is filed for record in the Office of the County Recorder of Iron County, Utah.

(c) All land added shall be for the purposes provided for in this Declaration.

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(d) The configuration of annexed land as to lot size, common areas and the nature, quantity or quality of improvements shall be in discretion of Declarant or its assigns. No assurances can therefore be given.

3. **Supplementary Declaration.** The annexation authorized under the foregoing section shall be made by filing of record a Supplementary Declaration of Restrictive Covenants and Conditions or similar instrument, with respect to the additional property which shall extend the plan of this Declaration to such property.

Such Supplementary Declaration contemplated above may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added property and as are not inconsistent with the plan of this Declaration.

The recordation of such Supplementary Declaration shall constitute and effectuate the annexation of the said real property described therein, making said real property subject to this Declaration and subject to the functions, powers and jurisdiction of the Association, and thereafter all of the owners of Lots in said real property shall automatically be members of the Association.

SECTION VIII

WESTVIEW ESTATES OWNERS ASSOCIATION, INC.

1. **Authority.** The water rights, water systems, common improvements, if any, utilities, architectural control and other common operations of the lot owners within the subdivision shall be managed and operated by the Westview Estates Owners Association, Inc., hereafter the

"Association"), on behalf of the owners. The Association shall be a Utah non-profit corporation entitled "The Westview Estates Owners Association, Inc." The Association shall have all rights and authorities granted to it as a non-profit corporation in the State of Utah, and in addition shall have the authority and powers to maintain and improve, on behalf of the Lot Owners, the common roads, systems and other common needs within the subdivision, and the authority to assess the lot owners for their pro-rata share of the expense of such maintenance and improvements. The Association shall also have authority to construct and maintain utilities or other improvements for the common benefit of the Lot Owners provided that no expense therefor shall be assessed against the Lot Owners which would amount to an individual lot assessment of \$500 or more unless that capital expenditure is approved by three-fourths of the lot owners. And, no improvement or utility shall be constructed, nor the expense therefor assessed against the lot owners, involving a cost to any individual lot owner of \$1,000, or more, without the unanimous approval of the Lot Owners within the subdivision.

2. **Operation of Association.** The business affairs of the Association, including meeting schedules, duties of officers and all conduct of the Association shall be governed by the bylaws of the Association.

3. **Assessments.** The total of all expenses incurred in the operation of the Association shall be apportioned among all the lots on a per lot basis. The Association shall establish a date for payment of common expenses on a monthly, semi-annual or annual basis. Expenses may include a reserve fund, in the discretion of the Association. The method of assessing the common expenses to the lots may be altered by the committee so long as the method it adopts is

consistent with good accounting practice and required that the portion of common expenses borne by each lot during a 12-month period be determined on a per lot basis.

4. **Lien.** All sums assessed to the Owner of any Lot within the subdivision pursuant to the provisions of this Section, together with interest at the rate of twelve percent (12%) per annum, shall be a personal obligation of the Owner of the respective Lots at the time of assessment and shall be secured by a lien on such Lot in favor of the Association. To evidence a lien for the sums assessed, the Association may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Lot and a description of the lot. Such notice shall be signed and acknowledged by a duly authorized officer of the Association and may be recorded in the County Recorder's office for Iron County, Utah. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by foreclosure by the Association in accordance with the provisions of applicable law relating to the exercise of powers of sale or foreclosure in deeds of trust or mortgages, or in any manner permitted by law in the State of Utah. In any action to enforce the assessment, including foreclosure, the owner shall be required to pay the costs and expenses of such proceeding, including reasonable attorney's fees, and such costs and expenses shall be secured by the lien being foreclosed. The Association may pursue either the foreclosure, or direct action against the owner, at its option.

5. **Membership.** Each person who purchases a Lot within the subdivision shall be entitled and required, and shall automatically become, a member of the Association.

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6. **Developer Temporary Authority.** Until such time as 75% of the subdivision is sold (calculated on a per lot basis), or a period of ten (10) years, which ever shall first occur, the Declarant shall be entitled to perform all functions of the owners association set forth herein, and even thereafter until the Association is incorporated and the officers and trustees thereof have been elected. Upon the formation of the Association by incorporation, the Declarant shall be entitled to appoint all Trustees thereof until 75% of the Lots have been sold or four years have passed, whichever shall first occur. Thereafter, Declarant shall have no further involvement nor responsibility in connection with the Association or its responsibilities and duties as herein set forth, except as an owner of any unsold Lots.

SECTION IX

WATER RIGHTS AND WATER SYSTEM

The water rights to be provided for culinary use shall be owned by the Northridge Water Company, Inc., and shall be provided to each Lot Owner in Northridge Estates and Westview Estates by a common water system, which will also be owned by the the Northridge Water Company, Inc. Each Lot Owner shall be entitled to use the water and water system, as part of the rights inherent in being a member of the Northridge Water Company, and shall be entitled to use said water as provided in water users rate schedule and water users rules and regulations. The Northridge Water Company, Inc., shall always maintain sufficient water rights to provide at least one (1) acre feet per lot. Said Northridge Water Company serves both Northridge Estates (Northridge at Cross Hollow Hills) and Westview Estates. The Trustees of said Water Company

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shall be comprised of four (4) members from Westview Estates and three (3) members from Northridge Estates, as set forth in the Northridge Water Company Bylaws.

SECTION X

MISCELLANEOUS COVENANTS

1. **Amendment.** The restrictions, covenants and conditions set forth herein may be amended by a majority vote of three-fourths of the Lot Owners; provided, however, that Section III and Section IV of these restrictive covenants shall not be amended except upon unanimous vote of the Lot Owners. The amendment shall not be enforceable nor effective until an instrument is recorded in the Iron County Recorder's Office indicating that a vote has been duly and properly taken on the proposed amendment, that it has been approved by the requisite percentage of owners within the subdivision, and is signed and acknowledged by each Owner in favor of the modification.

2. **Powers Prior to Formation of Homeowners Association.** Prior to the actual organization or incorporation of the Association contemplated by the terms of this Declaration, Declarant shall have the right, at its option, to perform the duties and assume the obligations, levy and collect the assessments and charges, and otherwise exercise the powers herein conferred on the Association in the same way and in the same manner as though all such powers and duties were herein given to Declarant directly. Declarant shall also have the right to modify, amend, repeal, or change any of the terms of this Declaration prior to the actual organization or incorporation of the Association.

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3. **Liberal Construction.** The provisions of these restrictive Covenants shall be liberally construed to achieve the goal and intent of the provisions hereof.

4. **Mailing Addresses.** Each Owner shall register with the Association his current mailing address. All notices or demands intended to be served upon any Owner may be sent by first-class U.S. Mail, postage prepaid, addressed to the Owner at his registered mailing address and shall be effective when so mailed.

5. **Right of Inspection.** At any reasonable time, upon appointment and at his own expense, any Owner may audit or inspect the books and records maintained by the Association.

6. **Legal Proceedings.** Any Lot Owner, or the Association, may maintain any legal proceedings to compel or enforce any of the terms and conditions of this Declaration.

7. **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.

8. **Failure to Enforce Not a Waiver.** Failure by declarant, the Association, or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

9. **Subordination.** No breach of any of the conditions herein contained or re-entry by reason of such breach shall defeat or render invalid the lien of any mortgage made in good faith

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EXHIBIT 'A'

BEGINNING at a point South 89°43'50" West 9.54 feet from the North Quarter corner of Section 19, Township 36 South, Range 11 West, Salt Lake Base and Meridian, which is a point on the Westerly right of way of West View Drive; thence along the said right of way along the arc of a curve to the left (radius point bears South 77°08'00" East) 257.27 feet with 2233.00 feet radius and central angle 06°36'04" thence along said Westerly right of way South 06°15'56" West 1994.27 feet; thence North 90°00'00" West 412.56 feet to a curve to the left; thence along the arc 87.48 feet with radius 300.16 feet and central angle 16°41'57" to a point of reverse curve; thence along the arc of a curve to the right 119.84 feet with 411.16 feet radius and central angle 16°41'57"; thence North 90°00'00" West 163.30 feet; thence North 00°00'00" East 299.33 feet to a curve to the left; thence along the arc of the curve 119.34 feet with 117.50 feet radius and central angle 58°11'33"; thence North 58°11'33" West 2.64 feet to a curve to the left; thence along the arc of the curve 31.42 feet with 20.00 feet radius and central angle 90°00'00"; thence North 58°11'33" West 66.00 feet; thence North 31°48'27" East 65.00 feet; thence North 58°11'33" West 70.49 feet to a curve to the right; thence along the arc of the curve 113.87 feet with 127.50 feet radius and central angle 51°10'16"; thence North 31°32'25" East 365.04 feet; thence North 00°00'00" East 405.79 feet; thence North 90°00'00" East 192.08 feet; thence South 00°00'00" West 10.35 feet; thence North 90°00'00" East 45.00 feet; thence North 00°00'00" East 65.49 feet; thence North 90°00'00" East 177.63 feet; thence North 00°00'00" East 184.86 feet; thence North 90°00'00" East 8.98 feet; thence North 02°28'00" East 125.12 feet; thence North 00°00'00" East 566.90 feet to a point on the North Section line of said Section; thence along the said Section line North 89°43'50" East 647.03 feet to the point of beginning.

BEING WEST VIEW ESTATES SUBDIVISION, PHASE I, a subdivision.

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EXHIBIT "B"

That portion of the following described property lying West of Westview Drive:

BEGINNING at the Southeast corner of Section 18, Township 36 South, Range 11 West, Salt Lake Base and Meridian, thence North 89°50'39" West along the Section line 330.01 feet, thence South 0°10'13" East 1331.59 feet to the 1/16 line; thence South 89°50'06" East along the 1/16 line 330.01 feet to the East line of Section 19, Township 36 South, Range 11 West, Salt Lake Base and Meridian, thence South 89°45'05" East along the 1/16 line 1321.25 feet to the Northeast corner of the Southwest Quarter of the Northwest Quarter of Section 20, Township 36 South, Range 11 West, Salt Lake Base and Meridian, thence South 0°28'41" East along the 1/16 line 1329.82 feet to the Southeast corner of the Southwest Quarter of the Northwest Quarter of said Section 20, thence North 89°49'59" West along the East-West Quarter Section line of said Section 20 and the North line of Cross Hollow Hills Subdivision, Phase 2 1328.38 feet to the West Quarter corner of said Section 20, thence North 0°10'13" West along the Section line 746.41 feet, thence North 87°19'59" West 117.50 feet, thence South 38°25'22" West 112.94 feet, thence North 87°26'14" West 254.95 feet, thence South 11°12'46" West 146.33 feet, thence North 70°17'29" West 281.22 feet, thence South 43°20'02" West 164.69 feet, thence North 81°46'49" West 532.05 feet, thence South 59°25'27" West 74.96 feet, thence South 89°56'00" West 686.45 feet, thence North 13°09'14" West 33.17 feet, thence North 88°32'14" West, 726.47 feet, thence South 6°53'50" West 589.53 feet, thence South 89°49'39" East 284.25 feet to the center of Section 19, Township 36 South, Range 11 West, Salt Lake Base and Meridian, thence South 0°18'50" East along the Quarter Section line 333.30 feet, thence North 89°48'53" West 310.49 feet to the East line of Westview Drive, thence South 2°24'02" West 184.84 feet to a point of curve, thence around the arc of a curve to the left with a radius of 1,145.47 feet a distance of 148.68 feet (the chord of said curve bears South 1°44'51" East 148.58 feet), thence South 89°48'13" East 316.53 feet to the North-South Quarter Section line of said Section 19, thence South 0°18'50" East along the Quarter Section line 666.60 feet to the Center South 1/16 corner of said Section 19, thence North 89°41'21" West along the 1/16 line 222.08 feet to the Spring Creek Development Phase 2 Subdivision boundary, thence North 14°51'48" West 231.87 feet, thence North 89°45'58" West 2409.81 feet to the West line of said Section 19, thence North 0°08'25" West 1106.31 feet to the West Quarter corner of said Section 19, thence North 0°08'47" West along the Section line 2661.54 feet to the Northwest corner of said Section 19, thence South 89°50'39" East along the Section line 2680.10 feet to the North Quarter corner of said Section 19, thence North 0°29'11" West along the Quarter Section line 1335.03 feet to the Northwest corner of the Southwest Quarter of the Southeast Quarter of said Section 18, thence South 89°57'15" East along the 1/16 line 2651.53 feet to the Northeast corner of the Southeast Quarter of the Southeast Quarter of said Section 18, thence South 0°34'18" East along the Section line 1340.15 feet to the point of beginning.

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