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JEFFERY SMITH  
UTAH COUNTY RECORDER  
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RECORDED FOR BRIDGESTONE HOA

BRIDGESTONE HOMEOWNERS ASSOCIATION  
Amended and Restated  
Declaration of Covenants, Conditions and Restrictions

This Amended and Restated Declaration of Covenants, Conditions and Restrictions (the "Declaration") is adopted on the date evidenced herein and includes all amendments and modifications thereto and previously recorded and any amendments adopted and approved by a vote in excess of two-thirds (2/3<sup>rd</sup>) of the eligible voting membership of the Bridgestone Homeowners Association.

WHEREAS this document supersedes and replaces the following Utah County recordings for the purpose of consolidation:

- Amended and Restated Declaration of Covenants, conditions and Restrictions recorded on March 25, 2004, ENT 33495:2004
- Revised Declaration of Covenants, Conditions and Restrictions recorded on October 11, 2002. ENT 120761:2002
- Declaration of Covenants, Conditions and Restrictions recorded on June 2, 1998, Book 4657, Page 609.
- Amended Declaration of Covenants, Conditions and Restrictions recorded on April 14, 1999, Book 5046, Page 749.
- Article of Amendment to the Amended Declaration of Covenants, Conditions and Restrictions recorded on September 8, 2000. ENT 70907:2000.
- Article of Amendment to the Amended Declaration of Covenants, Conditions and Restrictions recorded on January 24, 2005.
- Amended Declaration of Covenants, Conditions and Restrictions recorded on April 6, 2006. ENT 41501:2006.

WHEREAS the property identified below (hereafter "the Property") is hereby subjected to this Declaration which shall be binding against the Property, all owners thereof, their heirs, successors and assigns as set forth below.

Beginning from a point North 0\*0'47" East 22.70 feet and South 89\*59'13" East 2650.75 feet from the Northwest corner of Section 7, Township 5 South, Range 2 East, Salt Lake Base and Meridian; thence South 0\*17'52" East 507.99 feet; thence North 75\*6'30" West 428.36 feet; thence North 75\*7'19" West 326.633 feet; thence North 75\*6'30" West 131.11 feet, thence North 0\*41'4" West 42.72 feet; thence North 3\*33'27" West 238.19 feet; thence North 0\*5'20" East 226.40 feet; thence South 89\*59;13" East 200.70 feet; thence North 0\*0'47" East 121.25 feet; thence South 73\*17'13" East 229.79 feet; thence South 63\*32'34" East 416.50 feet; thence South 0\*0'47" West 96.73 feet; thence North 89\*32'8" East 75 feet to the point of beginning.

WHEREAS, the Bridgestone Homeowners Association (the "Association") is the entity formed to manage the common affairs of the Owners and to administer and enforce this Declaration,

NOW THEREFORE, the Association, by and through its Board of Directors, hereby declare that all of the properties described above shall be held, sold and/or conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

#### I. NAME, PURPOSE AND DEFINITIONS

The purpose of this instrument is to provide for the preservation of the values of Lots, Units, and Common Areas within Bridgestone, a Planned Unit Development in Cedar Hills, Utah (the "Development"), and for the maintenance of the roadways, driveways, sidewalks, parking amenities, open spaces, landscaping, trees and all other common areas therein.

The Development is hereby encumbered by the covenants, conditions, restrictions, easements and charges set forth below and duly adopted bylaws and reasonable rules and regulations, in order to:

- A. Insure the best and highest use and the most appropriate development and improvement of each Lot within the Development for residential purposes.
- B. Protect the owners of Units against the improper use of surrounding Lots.
- C. Preserve, so far as is practicable, the natural beauty of the Development.
- D. Guard against the erection of unsightly structures of improper or unsuitable materials.
- E. Encourage and secure the proper continued maintenance of the land and improvements on each Lot.
- F. Secure and maintain the proper use of easements within the Development.
- G. Preserve, as far as practicable, lines of sight from the units, and
- H. In general, provide for a residential subdivision of the highest quality to enhance the value of the investment made by owners in purchasing Units.

#### I. Definitions:

1. Association – shall mean and refer to the Bridgestone Homeowners Association, Inc., its successors and assigns and the governing body (Board) thereto. The Association shall be an incorporated nonprofit corporation. In the event that the Association

shall become unincorporated, for any reason, it may be reincorporated on motion of the Board of Directors.

2. Board of Directors – shall mean the governing body of the Association tasked with the obligation of managing the common affairs of the members and the Association and vested with any and all lawful powers to fulfill this objective.

3. Common Areas – shall mean all real property within the Project owned by the Association for the common use and enjoyment of the Owners.

4. Declarant – shall mean Perry Homes, Inc., a Utah Corporation, its successors and assigns or any other successor (if any) entity that asserts the rights of Declarant. Any such Declarant shall have all rights, privileges and obligations set forth herein.

5. Limited Common Areas – shall mean and refer to those Common Areas reserved for use of a certain unit or units to the exclusion of other units. Limited Common Areas include, but are not limited to, storage areas, parking spaces, common garages, hall spaces, elevators, doors and stairs specifically assigned for the exclusive use of the individual Unit Owners.

6. Owner – shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is part of the Property, including contract sellers, but excluding those having an interest in a Lot merely as security for the performance of an obligation.

7. Property - shall mean the real property described above and any lawful annexations or additions thereto, if permitted.

8. Restricted Common Areas -- shall mean and refer to those Common Areas restricted for the use by the Unit Owners. Restricted Common Areas include, but are not limited to, attics, utility closets and the clubhouse maintenance garage.

9. Unit –Unit shall mean and refer to any Lot with a dwelling and the physically enclosed space upon it.

10. Lot – shall mean and refer to the real property equivalent of the land directly under any Unit at the Project or the land on which a Unit may be build.

## II. ARCHITECTURAL CONTROL

A. ARCHITECTURAL CONTROL COMMITTEE: An Architectural Control Committee (the "ACC") shall be designated and composed of three (3) or more members. The Bridgestone Homeowners Association Board of Directors shall appoint the members of the ACC whose terms shall be established by the Board or, alternately and in its sole discretion, the Board shall act as the ACC. In the event of death or resignation of any member of the ACC, the Board

of Directors shall designate a successor for the remaining term of the outgoing ACC member. The Board of Directors shall have the right to remove any member of the ACC appointed by it with or without cause

**B. SUBMISSION AND APPROVAL OF PLANS:** Every Owner of a Lot or Unit who intends to modify or make improvements on it shall deliver a complete set of plans and specifications (the "Plans") to the ACC not less than thirty (30) days prior to the date modifications are to be commenced. Any modifications, following completion of construction by Declarant, of a residence that is to the exterior, permanent and visible from the street or to any neighbors, and/or that requires a building permit from the City of Cedar Hills is subject to governance by the ACC and ultimately the Board should a dispute arise between the ACC and Board. No modifications to a structure or improvement (including but not limited to buildings, fences, walls, landscaping, or site clearing) shall commence or be placed or altered on any Lot until the Plans have been approved in writing by a majority of the members of the ACC. The Plans shall include any information or documents which may be required by the ACC. Plans must conform to requirements of this Declaration and of the recorded subdivision plat. The ACC may postpone its review of the Plans pending receipt of any information or materials that the ACC, in its sole discretion, may require. The ACC may retain copies of the Plans until the modification is built out in its entirety. The ACC may refuse to approve the plans on any grounds that, in the sole and absolute discretion of the ACC, are deemed proper, including, but not limited to, purely aesthetic grounds. In reviewing the Plans, the ACC shall be guided by, but not limited by, the purposes set forth in the first paragraph of Name, Purpose and Definitions. The Association is authorized to remove or undo any modifications that are undertaken without proper notification to the ACC at the homeowner's expense.

It is specifically understood and provided that approval by the ACC of any Plans, or components thereof, shall not constitute a certification or assurance of compliance with this Declaration, the subdivision plat, or applicable law. The full burden of responsibility for compliance with all such requirements shall at all times be and remain upon the owner.

**C. ACTIONS OF THE ACC:** The vote of a majority of all the members of the ACC shall constitute an act of the ACC.

**D. FAILURE TO ACT:** In the event that plans are submitted to the ACC as provided above, and the ACC shall fail either to approve or reject the Plans within fourteen (14) days following the submission of all Plans required by the ACC, no approval by the ACC shall be required, and approval of the Plans shall be presumed; provided, however, that such 14-day period shall not begin to run until all information required by the ACC to assist the Committee in its review has been received.

**E. VARIANCES.** The ACC may grant a variance from compliance with any of the provisions of this Declaration or any supplemental Declaration, when, in the opinion of the ACC, in its sole and absolute discretion, the variance will not be adverse to the overall development plan for the Development, and the variance is justified due to visual or aesthetic considerations or unusual circumstances. All variances must be evidenced in writing and must be signed by at least a majority of the members of the ACC. The granting of a variance shall not operate to

waive or amend any of the terms and provisions of this Declaration or any supplemental Declaration for any purpose except as to the particular property and in the particular instance covered by the variance. A variance shall not be considered to establish a precedent for any future waiver, modification, or amendment of the terms and provisions of this Declaration. All plans and structures approved and/or constructed by Declarant or its predecessors in interest on any Lot at the property prior to the date of these Declarations shall be deemed approved for future construction by the Declarant on any Lot legally subdivided or approved at the property without any necessity of review by the ACC.

**F. NON-LIABILITY OF ARCHITECTURAL CONTROL COMMITTEE MEMBERS:** Neither the ACC nor any member thereof, shall be liable to any Owner or to any other person for any loss, damage, or injury arising out of the performance or non-performance of the ACC's rights and duties under this Declaration.

**III. RULES AND REGULATIONS:** The rules and regulations of the Association may be hereafter set forth in separate documents by the Board of Directors at various times and shall govern the use of Property, activities, and conduct of the Owners. The rules and regulations are intended to fill omissions purposely left in the Declaration s and bylaws and can be changed over time as the community changes. The rules and regulations shall further establish policies and procedures for internal governance of the Association's activities and regulate operation and use of Common Areas.

The Board may adopt a rule without first giving notice to the Owners if there is imminent risk or harm to the Common Areas, the Limited Common Areas or any persons residing within the Association..

Otherwise, before adopting, amending, modifying, canceling, limiting, creating exceptions to, or expanding the rules, the Board shall: (a) give at least 15 days' advance notice of a Board meeting to all Owners during which the proposed rule will be discussed, (b) provide an open forum for discussion with the Owners at the Board meeting held within the prescribe time, and (c) provide each Ownerwith a copy of the rule changes approved by the Board.

Notice of any change(s) shall be provided to the members within 15 days after the date of the Board Meeting. Duly adopted rules and regulations may be repealed by the members as provided for under Utah law.

#### IV. DUTIES AND OBLIGATIONS OF OWNERS

##### A. MAINTENANCE AND REPAIRS

1. Each Owner shall, at their own cost, maintain their Unit and any improvements constructed thereon and keep the same in good condition and repair at all times, except for the exteriors, roofs, and the landscaping which shall be maintained and repaired by the Association as provided herein.

2. Each Owner shall, at his own cost and expense, maintain, repair paint, repaint, tile, wallpaper or otherwise refinish and decorate the interior of the Unit including the walls, ceilings, floors and windows and doors forming the boundaries of the Unit and all walls, ceilings, floors, windows and doors within such boundaries except when damage and repairs are covered by a claim paid by the Association's master insurance policy. In addition to decorating and keeping the interior of the unit in good repair, and in a clean and sanitary condition, unit owner is responsible for the maintenance, repair or replacement of any plumbing fixtures, pipes, water heater, heating/air conditioning equipment, lighting fixtures, wire, refrigerator, dishwasher, disposal equipment, cooking range or other appliances or fixtures that may be located within or without their Unit but service only their Unit.

3. The painting or repainting, remodeling, rebuilding or modification of any Unit exterior or parts thereof must be submitted to and approved by the ACC.

4. In the event that the need for maintenance or repair of a Unit is caused through the willful or negligent acts of the owner, or through the willful or negligent acts of the family, guests, invitees or tenants of the owner, the cost of such maintenance and repairs, if not completed by the owner in a timely manner, shall be completed by the Association (as provided herein) and the costs added to and become part of the assessment to which such Unit is subject. Notwithstanding anything in this provision to the contrary, the Association shall make a claim on its insurance policy if required herein or by Utah law.

5. In the event an owner of any Unit within the Association shall fail to maintain their Unit and the improvements situated thereon in a manner required by this Declaration, the bylaws or the rules and regulations, the Association, shall have the right, through its agents and employees to enter said Unit and to repair, maintain and restore the Unit and any other improvement erected thereon. The cost of such maintenance shall be added and become a part of the assessment to which such unit is subject. The owner shall be given 30 days notice to complete necessary maintenance or repair. Except for in cases of emergency, reasonable notice shall be given to any Owner prior to entering a Unit.

6. Storage in Common Area garages must not impede the parking of two vehicles. Such storage must be kept in a clean, sanitary and safe condition at all times. Exceptions must be approved by the Board of Directors.

7. Maintenance of Limited Common Areas. Each Owner shall keep the Limited Common Areas designed for use in connection with their Unit in a clean, sanitary, and attractive condition at all times.

**B. ASSESSMENT 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. Violations of any of the terms of this Declaration, the bylaws, or rules and regulations may subject an Owner to a fine, in compliance with this Declaration and Utah law.

C. ACCESS FOR REPAIR OF COMMON, LIMITED COMMON AND RESTRICTED COMMON AREAS: Some of the Common Areas, Limited Common Areas, and Restricted Common Areas are or may be located within the Units or may be conveniently accessible only through the Units. The Owners of the other Units shall have the irrevocable right, to be exercised by the Board of Directors as their agent, to have access to each Unit and to all Common Areas from time to time during such reasonable hours as may be necessary for maintenance or repair of the Common Areas, accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Areas or another Unit/Units.

The Board of Directors shall also have such rights independent of the agency relationship. Damage to the interior or any part of the Unit/Units resulting from the maintenance, repair, emergency repair or replacement of any of the common areas or as a result of emergency repair within another Unit at the insistence of the Board of Directors or the Unit Owners shall be an expense of all the Unit Owners and assessed proportionately.

Unless otherwise covered by the Association's insurance policy, if such damage is the result of negligence on the part of the owner of one Unit then such owner shall be financially responsible for all such damage or the Association's insurance deductible, whichever the case may be. The Association shall collect amounts owing by Owners pursuant hereto by assessment pursuant to this Declaration.

D. COMMON AREA: CLUBHOUSE: Clubhouse hours, rules and scheduling are to be determined by the Board of Directors from time to time. Keys to the Clubhouse event room will be kept by the Clubhouse Committee and issued to Owners prior to the scheduled event. All residents are responsible for the safety and supervision of their own family and guests. An adult resident must be present during clubhouse use and insure the supervision of children. No Owner, their family members, guests or invites shall use skateboards, bikes, scooters, n or around the Clubhouse. Pets are prohibited.

E. RIGHT OF INGRESS AND EASEMENT OF ENJOYMENT: Each Owner shall have a right and easement of use and enjoyment in and to the common areas. Such right and easement shall be appurtenant to and shall pass with the title to each Unit and in no event shall be separate therefrom. Any owner may delegate the right and easement of use and enjoyment described herein to any family member, tenant, lessee or contract purchaser who resides in such owner's unit.

F. EASEMENT TO ASSOCIATION. : The Association, by and through its Board of Directors, shall have non-exclusive easements to make such use of the CommonAreas as may be necessary or appropriate to perform the duties and functions which they are obligated or permitted to perform pursuant to this Declaration.

G. EASEMENT FOR UTILITY SERVICES: There is hereby created a blanket easement upon, across, over and under the property for ingress, egress, installation, replacement, repair and/or maintenance of all utilities, including but not limited to: water, sewer, gas, telephone, electricity and other public and private utility services.

## H. USE OF UNIT:

1. Zoning: each of the units in the project is intended to be used by a single family (as defined by located ordinance) or up to 3 or fewer unrelated individuals. Each Unit may be rented or leased by the Unit owner for use and occupancy as herein stated.

2. Restrictions Concerning Common Areas: There shall be no obstruction of the common area by the Owners, their tenants, guests or invitees without the prior written consent of the Board. The Board may, by rules and regulations, prohibit or limit the use of the Common Areas as may be reasonably necessary for protecting the interests of all the Owners or protecting the Units or the Common Areas. Nothing shall be altered, constructed or removed from the Common Areas, except upon consent of the Board.

3. Miscellaneous Restrictions: Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would result in the cancellation of the insurance of the Association or any part thereof or increase the rate of the insurance on the Association or any part thereof over what the Association would pay. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to or improper disposal of waste in the Common Areas or any part thereof shall be committed by any Owner or any invitee of any Owner and each Owner shall indemnify and hold the Association harmless against all loss resulting from any such damage or waste caused by them or their invitees.

No noxious, destructive or offensive activity shall be carried on in any Unit or in the Common Areas or any part thereof as may be further defined in the rules of the Association, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other owner or to any person at any time lawfully residing in the Association. This latter restriction does not include normal activities associated with living in the Unit such as operation of the elevator, or operation of the garage doors regardless of the time of day or night.

4. Animals. Household pets may be kept in Units subject to strict observance of Rules and Regulations adopted by the Board of Directors.

5. No Violations of Rules and Regulations. No Owner shall violate the rules and regulations for the use of the Units and the common areas as adopted from time to time by the Association. Violations of any such rules and regulations may subject an Owner to fines as provided for in this Declaration and consistent with Utah law.

6. Restrictions or Alterations: No structural alterations to interior or exterior of any unit shall be made by any Owner without previous written approval of the ACC.

7. Declarant's Right to Sell Units : Notwithstanding anything contained in this Declaration or rules and regulations to the contrary, until the Declarant has completed and sold all of the Units, neither the Unit Owners who have purchased units from the Declarant nor the Association or either of them shall interfere with the completion of the Units and contemplated



improvements and sale of the remaining Units. The Declarant may make such use of the unsold Units and the common areas as may facilitate such completion and sale, including, but not limited to, the maintenance of a sales office, the showing of the Units and recreation facilities and the display of signs. Once a Unit has been sold by the Declarant to a third party, the new Owner or its agent may place one "For Sale" sign in the window of the premises, but it may be no larger than 18"x24".

I. DUTY OF OWNER TO PAY TAXES ON UNIT OWNED: Each Owner shall pay the property taxes assessed for the Unit that they own as well as pro-rata share of the taxes assessed for the Common Areas.

J. RESPONSIBILITY TO PROVIDE SUPERVISION: Each Owner has the responsibility to provide proper supervision for children, those who are handicapped, or otherwise for those who have disabilities, to insure the safety of all tenants, invitees, and Owners. This includes but is not limited to supervision around staircases, parking garages, Common Areas, and elevators such that those with disabilities (whether physical, mental, or due to age) are kept from harm. Declarant and/or contractor shall not be responsible for any injuries that might occur on the property except for those injuries directly caused by Declarant's/contractor's negligence.

## V. HOMEOWNERS ASSOCIATION

A. To the extent required by Utah law, the Association shall register itself with the Department of Commerce for the State of Utah and shall keep such registry up to date if and when Board members change by updating the Department's records within 90 days after any such change.

### B. PROPERTY RIGHTS

1. OWNERS' EASEMENTS OF ENJOYMENT: Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

a. The Board reserves the right to suspend the voting rights, and the right to the use of the recreational facilities by an Owner for any period during which any assessment against their Lot remains unpaid; or for any infraction of its published rules and regulations and to enforce such suspension until all payments are brought current. In the event that any such voting rights are suspended, the total number of eligible votes for purposes of any matter requiring Owner approval shall be reduced by the number of Owners whose rights are suspended.

b. The Association reserves the right to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3rds) of members agreeing to such dedication or transfer has been recorded.

2. DELEGATION OF USE: Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Areas and facilities to the members of his family, his tenants, or contract purchasers who reside on the Property.

#### C. MEMBERSHIP AND VOTING RIGHTS

1. Every Owner of a Unit that is subject to assessment shall be a member of the Association. Membership shall be pertinent to and may not be separated from ownership of any unit that is subject to assessment. In addition, the Declarant shall be a voting member of the Association.
2. The Declarant shall have one vote for each Lot owned.

#### D. COVENANT FOR MAINTENANCE ASSESSMENTS

1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS: The Declarant, for each Unit owned within the property, hereby covenants, and each Owner of any Unit by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- a. A special assessment of an amount permitted by law and as may be established in the Rules and Regulations to cover the clubhouse and other special needs levied on re-sales, to be paid at closing.
- b. Annual assessments or charges; and
- c. 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 attorney fees, and shall be a continuing lien on the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney fees shall also be the personal obligation of the person who was the owner of such property at the time the assessment falls due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

2. PURPOSE OF ASSESSMENTS: The assessment levied by the Association shall be used exclusively to promote the enjoyment, health, safety, welfare and recreation of the residents in the properties and for the improvement and maintenance of the Common Areas.

a. In addition to maintenance of the Common Areas, the Association shall provide exterior maintenance for each Unit which is subject to assessment hereunder, as follows: paint, repair, replacement and care of roofs, gutters, downspouts and exterior building surfaces; replacement of trees, shrubs, grass; repair and replacement of walks and other exterior improvements. Such exterior maintenance shall not include repair or replacement of glass windows for each Unit.

b. Included in the assessment is the cost of adequate liability and hazard insurance on property owned by the Association and on all Units and structures within Bridgestone, outside lighting, elevator maintenance, snow removal, landscape and grounds

maintenance, capital improvements, roadway and parking area maintenance, and a reserve for maintenance and repairs of Common Areas and structures.

3. MAXIMUM ANNUAL ASSESSMENT:

a. The annual assessment as of July 1, 2011 is One-thousand Six-hundred Fifty dollars (\$1,650.00) per unit.

b. The maximum annual assessment may be increased each year not more than ten percent (10%) above the maximum assessment for the previous year without a vote of the membership.

c. The maximum annual assessment may be increased above ten percent (10%) by vote of two-thirds (2/3rds) of members who are voting in person or by proxy, at a meeting duly called for this purpose.

d. The Board may fix the annual assessment at an amount not in excess of the maximum.

e. The annual assessment may be paid in monthly installments at the rate of one-twelfth (1/12<sup>th</sup>) of the total amount due by the tenth (10<sup>th</sup>) of each month, or in other installments approved by the Association.

4. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS: In addition to the assessments authorized above, the Board 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, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3rds) of the members who are voting in person or by proxy at a meeting duly called for this purpose.

5. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER D(3) AND D(4): Written notice of any meeting called for the purpose of taking any action authorized under subsections 3 and 4 above, shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to vote must be 51% or more of all the votes. This 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 – i.e. twenty-five percent (25%). No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

6. BUDGET. At least annually, the Board shall prepare and adopt a budget for the Association which shall be presented to the membership at the annual meeting as set forth in the Bylaws. A budget is disapproved if within 45 days after the annual meeting there is a vote of disapproval by at least 51% of all of the allocated voting interests of the Lot Owners in the Association taken at a special meeting called for that purpose.

7. UNIFORM RATE OF ASSESSMENT: Both regular and special assessments must be fixed at a uniform rate for all units and may be collected on a monthly basis.

8. DATE OF COMMENCEMENT OF ASSESSMENT: Due Dates: The annual assessments provided for herein shall commence for all units on the date of conveyance of title to the new owner. The annual assessment for new owners shall be adjusted according to the number of months remaining in the calendar year, with the amount for the first month to be pro-rated from the day of title conveyance proportional to the number of days in that month. The Board shall establish the due dates. The Board or its agent shall, upon demand, and for a reasonable charge not to exceed the amount established by law, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified unit have been paid. A properly executed certificate of the Association as to the status of assessments on a unit is binding upon the Association as of the date of its issuance.

9. EFFECT OF NON-PAYMENT OF ASSESSMENT: Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six-percent (6%) per annum. The Board may bring an action at law against the Owner personally obligated to pay for same, or foreclose the put a lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of the Unit.

In addition to any remedies for non-payment of assessments contained in this Declaration, the Association may utilize all remedies provided by Utah law including, but not limited to:

- a. Cause a Lot to be sold through judicial or nonjudicial foreclosure as though its lien were a deed of trust or mortgage, in the manner provided for the foreclosure of deeds of trust and mortgages pursuant to any applicable Utah laws. A Lot Owner's acceptance of a deed for a Lot constitutes a simultaneous conveyance of the Lot in trust. The Association, pursuant to Utah law, is considered to be the beneficiary of such trust and is vested with the power of sale
- b. Terminate an Owner's right to receive a utility service and the use of any recreational facilities which is paid for out of common assessments upon following the procedures, notice and hearing requirements under Utah law.
- c. Require a tenant under a lease with a Lot Owner to pay the Association all future lease payments due to the Lot Owner, until the Lot Owner's account is current, pursuant to the procedures and notice requirements under Utah law.

10. SUBORDINATION OF THE LIEN TO MORTGAGES: The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any unit shall not affect the assessment lien. No sale or transfer shall relieve such unit from liability for any assessments that are past due or from any assessments thereafter becoming due.

11. UNOCCUPIED UNITS: Notwithstanding any other provision of this Declaration to the contrary, there shall be no monthly, annual or special assessments assessed to any Units being constructed by Declarant until such time as the unit is fully completed and an "Occupancy Permit" is granted from the City of Cedar Hills. If the Declarant is the owner after

the "Occupancy Permit" has been obtained, sixty-percent (60%) of the assessment applicable for that unit shall be the obligation of the Declarant. Such assessment shall begin at the first of the month following the day that the "Occupancy Permit" is obtained. When each unit is occupied for the first time by a party other than the Declarant, or the association assumes responsibility for insurance and maintenance, or title thereto is no longer vested in the Declarant, such Lot Owner shall then pay one-hundred-percent (100%) of the amount which would otherwise be assessed to that unit.

12. NO ABATEMENT OF ASSESSMENTS: No diminution or abatement of any assessments under this Declaration shall be claimed or allowed for inconvenience or discomfort arising from any construction within the Development, the making of any repairs or improvements to or maintaining of the Development, or any part thereof or from any action taken to comply with the provision of this Declaration or with the laws, ordinances, regulations, rules or orders of any government authority.

13. RESERVES: The Board shall cause a reserve analysis to be conducted to determine the amount of money needed to create a reserve fund to cover the costs of repairing, replacing and restoring Common Areas that have a useful life of three years or more.

a. The reserve analysis shall be reviewed and updated as required by Utah law.

b. Any money allocated to a reserve fund shall be contained in a fund or account separate from other Association funds.

c. The Association shall, at least annually, present the reserve study to its members and provide an opportunity for Lot Owners to discuss the level of reserve funding and to vote on how much should be allocated to reserves. Minutes of such decisions shall be kept regarding any decision relating to reserve funding.

## VI. INSURANCE.

### A. Property Insurance.

1. PROPERTY INSURANCE: The Association shall maintain, to the extent reasonably available, property insurance on the physical structures of all attached dwellings/Units, Limited Common Areas appurtenant to a Unit on a Lot and Common Areas within the Association, insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage perils.

2. AMMOUNT OF PROPERTY INSURANCE COVERAGE: The total amount of coverage provided by blanket property insurance may not be less than 100% of the full replacement cost of the insured property at the time the insurance is purchased and at each renewal date, excluding items normally excluded from property insurance policies.

3. INSURING FIXTURES, IMPROVEMENTS OR BETTERMENTS: Property insurance shall include coverage for any fixture, improvement, or betterment installed by an Owner to an attached dwelling or to a Limited Common Area appurtenant to a dwelling on a lot, including a floor covering, cabinet, light fixture, electrical fixture, heating or plumbing fixture, paint, wall covering, window, and any other item permanently part of or affixed to an attached dwelling or to a Limited Common Area.

4. DETACHED DWELLINGS: Notwithstanding anything in this section and unless otherwise provided in the Declaration, the Association is not required to obtain property insurance for a loss to a dwelling that is not physically attached to another dwelling or to a Common Area structure.

5. EACH LOT OWNER DEEMED AN INSURCE: Each Lot Owner is an insured person under a property insurance policy of the Association.

6. ASSOCIATION INSURANCE IS PRIMARY; AFFECT OWNER(S) RESPONSIBLE FOR DEDUCTIBLE: If a loss occurs that is covered by a property insurance policy in the name of the Association:

- (a) the Association's policy provides primary insurance coverage; and
- (b) a Lot Owner is responsible for the Association's policy deductible; and
- (c) the Lot Owner's policy applies to that portion of the loss attributable to the Association's policy deductible.

7. DEFINITIONS: As used in this section and pursuant to the Act:

(a) "Act" means Utah's Community Association Act, as amended from time to time, currently cited as U.C.A. 57-8a-101 et seq.

(b) "Covered loss" means a loss, resulting from a single event or occurrence, that is covered by the Association's property insurance policy.

(c) "Lot damage" means damage to any combination of a lot, a dwelling on a lot, or a limited common area appurtenant to a lot or appurtenant to a dwelling on a lot.

(d) "Lot damage percentage" means the percentage of total damage resulting in a covered loss that is attributable to lot damage.

8. CALCULATION OF OWNER RESPONSIBILITY: A Lot Owner who owns a Lot that has suffered lot damage as part of a covered loss is responsible for an amount calculated by applying the lot damage percentage for that lot to the amount of the deductible under the Association's property insurance policy.

9. PENALTY OF OWNER DOES NOT PAY ITS PORTION OF DEDUCTIBLE: If a Lot Owner does not pay the amount required pursuant to this section and the Act within 30 days after substantial completion of the repairs to, as applicable, the Lot, a dwelling on the Lot, or the Limited Common Area appurtenant to the Lot, the Association may levy an assessment against a Lot Owner for that amount.

10. ASSOCIATION TO SET ASIDE FUNDS: The Association shall set aside an amount equal to the amount of the Association's property insurance policy deductible or \$10,000, whichever is less.

11. NOTICE TO OWNERS REGARDING THEIR RESPONSIBILITIES: The Association shall provide notice to each Lot Owner of the Lot Owner's obligations herein for the Association's policy deductible and of any change in the amount of the deductible.

12. FAILURE TO PROVIDE NOTICE TO OWNERS: If the Association fails to provide notice as stated herein, it is responsible for the amount of the deductible increase that the Association could have assessed to a Lot Owner under this Section and the Act. The Association's failure to provide notice as provided herein, however, may not be construed to invalidate any other provision of this section.

13. WHEN THE OWNER'S INSURANCE IS CONSIDERED PRIMARY: If, in the exercise of the business judgment rule, the Board determines that a claim is likely not to exceed the Association's property insurance policy deductible:

- (a) The Lot Owner's policy is considered the policy for primary coverage to the amount of the Association's policy deductible;
- (b) A Lot Owner who does not have a policy to cover the Association's property insurance policy deductible is still responsible for the loss to the amount of the Association's policy deductible;
- (c) The Association need not tender the claim to the Association's insurer.

14. PAYMENT AND DISBURSEMENT OF INSURANCE PROCEEDS: The insurance proceeds for a loss under the Association's property insurance policy:

- (a) are payable to an insurance trustee that the Association designates or, if no trustee is designated, to the Association; and
- (b) may not be payable to a holder of a security interest.

An insurance trustee or the Association shall hold any insurance proceeds in trust for the association, lot owners, and lien holders.

Insurance proceeds shall be disbursed first for the repair or restoration of the damaged property.

After the disbursements are made and the damaged property has been completely repaired or restored or the project terminated, any surplus proceeds are payable to the Association, Lot Owners, and lien holders.

The Board is not liable to Lot Owners if the insurance proceeds are not sufficient to cover 100% of the full replacement cost of the insured property at the time of the loss.

## B. LIABILITY INSURANCE.

1. **LIABILITY INSURANCE:** The Association shall maintain liability insurance, including medical payments insurance covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Areas.

2. **AMOUNT OF LIABILITY INSURANCE:** A liability insurance policy shall be in an amount determined by the Board but not less than an amount specified in the Declaration or Bylaws.

3. **EACH LOT OWNER DEEMED AN INSURED:** Each Lot Owner is an insured person under a liability insurance policy that the Association obtains that insures against liability arising from the Lot Owner's interest in the Common Areas or from membership in the Association.

If the Association becomes aware that property insurance or liability insurance is not reasonably available, the Association shall, within seven calendar days after becoming aware, give all Lot Owners notice that the insurance is not reasonably available.

## C. ADDITIONAL INSURANCE.

1. **ADDITIONAL INSURANCE:** The Declaration or Bylaws may require the Association to carry other types of insurance in addition to those described in this section or in the Act. The Association may, as the Board considers appropriate, obtain:

- (a) An additional type of insurance than otherwise required; or
- (b) A policy with greater coverage than otherwise required.

D. **WAIVER OF SUBROGATION:** An insurer under a property insurance policy or liability insurance policy obtained pursuant to this section waives its right to subrogation under the policy against any lot owner or member of the lot owner's household.

E. **OWNERS PERMITTED TO OBTAIN INSURANCE FOR THEIR OWN BENEFIT:** A property insurance or liability insurance policy issued to the Association may not prevent a Lot Owner from obtaining insurance for the Lot Owner's own benefit.

F. **DAMAGE TO A PORTION OF PROJECT:** If a portion of the project for which insurance is required under this section is damaged or destroyed, the Association shall repair or replace the portion within a reasonable amount of time unless:

- (a) the project is terminated;
- (b) repair or replacement would be illegal under a state statute or local ordinance governing health or safety; or
- (c) at least 75% of the allocated voting interests of the lot owners in the Association vote not to rebuild; and



(d) each Owner of a dwelling on a Lot and the Limited Common Area appurtenant to that Lot that will not be rebuilt votes not to rebuild.

If a portion of a project is not repaired or replaced because the project is terminated, the termination provisions of applicable law and the governing documents apply.

The cost of repair or replacement in excess of insurance proceeds and reserves is a common expense.

G. DAMAGE OR DESTRUCTION TO ENTIRE PROJECT: If the entire project is damaged or destroyed and not repaired or replaced:

(1) The Association shall use the insurance proceeds attributable to the damaged Common Areas to restore the damaged area to a condition compatible with the remainder of the project;

(2) The Association shall distribute the insurance proceeds attributable to Lots and Common Areas that are not rebuilt to:

- (a) the Lot Owners of the lots that are not rebuilt;
- (b) the Lot Owners of the lots to which those common areas that are not rebuilt were allocated; or
- (c) lien holders; and

(3) the Association shall distribute the remainder of the proceeds to all the Lot Owners or lien holders in proportion to the common expense liabilities of all the Lots.

H. IF OWNERS VOTE NOT TO REBUILD: If the Lot Owners vote not to rebuild a Lot:

(1) the Lot's allocated interests are automatically reallocated upon the Lot Owner's vote as if the Lot had been condemned; and

(2) the Association shall prepare, execute, and submit for recording an amendment to the Declaration reflecting the reallocations described above.

## VII. ALTERATION TO SITE PLAN AND EXPANDABILITY

A. PLANS: No construction of a new Unit may be commenced until plans showing the nature, kind, shape, height, width, color, materials and details thereof have been submitted to and approved in writing by the Board of Directors. Notwithstanding the foregoing, however, no prior approval is necessary for construction of a new Unit(s) if the new Unit(s) consist of plans and designs which have been previously approved by the Board or otherwise utilized in the Development.

B. STANDARD OF APPROVAL: The Board shall approve plans for new Unit(s) submitted for its approval only if it reasonably determines that:

1. All things considered, the improvement or construction contemplated by the new Unit(s) will not be detrimental to the surrounding area, to the Properties as a whole, or to the best interests of the Association as a whole.

2. In light of the aesthetic aspects of the architectural designs, landscaping, color schemes, exterior finishes and materials and similar features, the new Unit(s) will not detract from the beauty and attractiveness of the Property or the enjoyment thereof by the Members, and,

3. The ongoing maintenance of any proposed new Unit(s) on a per unit or per building basis will not be any more burdensome from an expense perspective on the Association than the already existing Unit(s) are on a per unit or per building basis.

C. ANNEXATION BY DECLARANT: Declarant may, from time to time, expand the Development subject to this Declaration by the annexation of all or part of the lands constituting the additional land. Subject to compliance with the conditions imposed by the following: the annexation of any such land shall become effective upon the concurrent recordation in the office of the County Recorder of Utah County, Utah, of a Plat of such additional land signed by the owner thereof and of a supplemental declaration ("Supplemental Declaration") which:

1. is signed by the then owner(s) of such additional land as Declarant
  2. describes the land to be annexed
  3. declares that the annexed land is to be held, transferred, sold, conveyed and occupied as part of the property subject to this Declaration; and
  4. Sets forth such additional limitations, restrictions, easements, covenants and conditions not inconsistent with those of this Declaration, as are applicable to the annexed land.
- When any such annexation becomes effective, the annexed land shall become part of the property of the Development and subject to the provisions of this Declaration and any amendment(s) or supplement(s) thereto.

D. LIMITATION ON ANNEXATION: Declarant's right to annex land to the Development shall be subject to the following limitation:

1. The annexed land must be part of the additional land set forth and described herein.
2. Declarant shall not effectuate any annexation of land which would cause the total number of lots existing in the Development to exceed one-hundred and four (104).
3. The holder of each mortgage, deed of trust or other security device affecting any part of the additional land being annexed into the Development must consent, through appropriate instruments recorded in Utah County, Utah, to the recordation of the Supplemental Declaration and to the plat to which such Supplemental Declaration related.
4. The final plat for the portion of the additional land to be annexed shall have been approved by the Cedar Hills Town Council.
5. All common areas covered by the Supplemental Declaration designed on the plat related thereto shall be conveyed to the Association, and,
6. Declarant's right to annex land to the Development shall expire fifteen (15) years after this Declaration is filed for record in the office of the County Recorder of Utah County, Utah.

E. NO OBLIGATION TO ANNEX OR DEVELOP: Declarant has no obligation hereunder to annex any additional land to the Development or to develop or preserve any portion of additional land in any particular way or according to any particular time schedule. No land other than the property, as described in page 1 and the land annexed thereto in accordance with the terms of this Article shall be deemed to be subject to this Declaration whether or not shown on any subdivision plat filed by Declarant or described or referred to in any documents executed or recorded by Declarant.

F. OTHER ANNEXATION: Notwithstanding anything herein to the contrary, to the extent that Declarant does not now or in the future may not own all of the additional land, the then owners of such additional land or parts thereof (Adjoining Owners") may annex all or any part of the additional land to the Development and subject the same to the terms of this Declaration provided that:

1. The same limitations which are imposed on Declarant under B of this Paragraph VIII shall be applicable to Adjoining Owners and,
2. Adjoining Owners make the recordations and comply with all the other requirements referred to in this document.

#### VIII. GENERAL PROVISIONS

A. 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, 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 delivering or mailing or it may be sent by email to the latest email address provided to the Association by the owner unless the Owner requests regular mail for notices. Any notice required or permitted to be given to the Association may be given by delivering or mailing the same or sending an email message to any officer or director of the Association. In addition, notice to the members may be provided publishing such notice on the Association's website, if any.

B. INTEREST; LATE FEES; REINVESTMENT FEE COVENANTS: In the event any charge, cost or other expense or monetary duty is not paid when due, such amount shall bear interest at the highest rate allowed by law from due date until paid. The Board may impose a late fee, pursuant to its rule making authority cited above. In addition, a reinvestment fee covenants is hereby authorized and imposed, as adopted by the Board and consistent with Utah law, applicable to each conveyance of a Unit within the Association.

C. ENFORCEMENT: The Declarant, the Board and each owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions and reservations now or hereafter imposed by this declaration or any supplemental Declaration. Any failure to enforce these covenants and restrictions shall not be deemed a waiver of the right to do so thereafter. Any violation of these covenants shall not affect the lien of any mortgage or deed of trust of any secured party. Nothing herein shall authorize the Declarant, Board, or owner to deny ingress or egress to or from a lot or unit by a property owner. The prevailing party in any action to enforce

this Declaration, the Bylaws or the Rules and Regulations of the Association shall be entitled to their costs and reasonable attorney fees for bringing such an action.

D. BOARD OF DIRECTORS AUTHORITY AND ENFORCEMENT; FINES: As provided for herein, the Board may make and enforce rules and regulations governing the use of the Property which shall be consistent with these CC&Rs.

1. FINING AND SUSPENSION PROCEDURE: In addition to such other rights as are specifically granted under this Declaration, the Board shall have the power to impose legally permissible fines which shall constitute a lien upon the lot or unit of the violator, and to suspend an owner's right to vote or any person's right to use the common areas for violation of any duty, restriction or covenant imposed under this Declaration if the owner is more than thirty (30) days delinquent in paying any assessment or other charges owed to the Association. In the event that any rule or regulation is violated hereunder and a fine is imposed, the fine shall first be imposed against the occupant, provided, however, that if the fine is not paid by the occupant within the time period set by the Board, the owner shall pay the fine upon notice from the Association. The failure of the Board to enforce any provision of this revised Declaration or any rule or regulation imposed hereunder shall not be deemed a waiver of the right of the Board to do so thereafter.

2. NOTICE: Prior to the imposition of any fine hereunder, the Board or its agent shall serve the alleged violator with written notice describing (1) the nature of the alleged violation, (2) the proposed fine to be imposed which shall be based on a previously adopted schedule of fines and (3) a period of time (generally 3-30 days) within which the alleged violator may present a written request for a hearing to the Board. The Board may, but shall not be obligated to, suspend any proposed fine if the violation is cured within the time period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any owner. Fines may incur late charges if not paid by stated due dates. The Board is not required to provide advance notice before (A) imposing late charges on delinquent assessments, or (B) suspension of voting rights if an owner is shown on the HOA records to be more than thirty (30) days delinquent in any payment due the HOA, in which case suspension of the right to vote shall be automatic.

3. HEARING: If a hearing is requested by the person(s) being fined within the allotted time period, the hearing shall be held before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. No interest or late fees may accrue until after the hearing has been conducted and a decision has been rendered. The decision of the Board at such hearing shall be final.

E. REIMBURSEMENT OF ATTORNEYS' FEES AND COSTS: If an owner defaults in making a payment of any assessment or in the performance or observance of any provision of the Governing Documents of the Association and the Board obtains the services of an attorney with respect to the default involved, the owner shall pay to and reimburse the Association for any and all reasonable costs, fees and expenses, including attorney fees incurred by the. The owner shall reimburse the Association for the costs of preparing and recording a notice and claim of lien regardless of whether an attorney is employed by the Association for that purpose.

F. EQUAL TREATMENT OF OWNERS: These Rules and Regulations shall be applied to and enforced against all owners in a similar fashion and without discrimination in accordance with the applicable requirements of relevant federal and state laws.

G. INTERPRETATION OF THE COVENANTS: Except for judicial construction, the Association, through its Board shall have the exclusive right to interpret the provisions of these CC&Rs. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Board construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and/or property benefited or bound by the covenants and provisions hereof.

H. OWNERS' COMPLIANCE: Each owner, tenant or occupant of a unit shall comply with the provisions of this Declaration, the Articles, Bylaws and decisions, resolutions, rules and regulations of the Association or its duly authorized representative, as lawfully amended from time to time, and failure to comply with any such provisions, decisions, resolutions, rules or regulations shall constitute the basis for an action to recover sums due for damages or for injunctive relief, including reasonable attorneys' fees and all costs. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in this Declaration or in the Articles or Bylaws shall be deemed to be binding on all owners of lots or units, their successors and assigns.

I. SEVERABILITY: Invalidation of any one or more of the provisions of these covenants and restrictions by judgment or court order shall in no way affect the validity of any other provision and all other provisions shall remain in full force and effect.

J. AMENDMENTS: Except as otherwise provided herein, the provisions of this Declaration may be amended by an instrument in writing signed and acknowledged by the holders of record title to at least sixty-seven percent (67%) of the lots subject to these restrictions, which amendment shall be effective upon recordation in the office of the County Recorder of Utah County, Utah.

K. EXCEPTION: Notwithstanding "J" above, Declarant may (at Declarant's option) amend and modify this Declaration without obtaining the consent or approval of the owners if such amendment or modification is necessary to cause this Declaration to comply with the requirements of the Federal Housing Administration, the Veterans Administration, Federal National Mortgage Association or other similar agency.

L. DURATION: These covenants, conditions and restrictions shall be effective for a term of thirty (30) years from the date this Declaration is recorded; provided, however, that all easements shall be perpetual. After the 30-year period, these covenants, conditions and restrictions (CC&Rs), shall be automatically extended for successive periods of ten (10) years each, unless terminated by written instruments signed by the owners of at least two-thirds (2/3rds) of the lots comprising the property.

M. INTERPRETATION: If this Declaration or any word, clause, sentence, paragraph or other part thereof shall be susceptible to more than one or conflicting interpretations, then the interpretation of the Board shall govern.

N. GENDER AND GRAMMAR:

1. The singular, whenever used herein, shall be construed to mean the plural when applicable and the necessary grammatical changes required to make the provisions here apply either to Corporations or individuals, males or females shall in all cases be assumed as though in each case fully expressed.

2. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.


3. In the event of conflict between the terms of the Declaration and any Bylaws, rules, regulations or Articles of Incorporation of the Association, this Declaration shall control.

ADD SIGNATURE BLOCK AND NOTARY BLOCK BELOW.



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STATE OF UTAH  
COUNTY OF Utah  
ON THE 21 DAY OF June 2012  
PERSONALLY APPEARED BEFORE ME  
Robert H. Chertoff SIGNER(S) OF THE ABOVE  
INSTRUMENT, WHO DULY ACKNOWLEDGED TO ME THAT  
HE/SHE/THEY EXECUTED THE SAME



NOTARY PUBLIC

