

WHEN RECORDED RETURN TO:
HOMEPOINT REALTY, INC..
5003 Memory Lane
Holladay, UT 84117
(801) 755-8200

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GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
HOMEPOINT REALTY INC
5003 MEMORY LANE
HOLLADAY UT 84117
BY: SLR, DEPUTY - MI 13 P.

**DECLARATION OF PROTECTIVE COVENANTS
FOR
KEN OLSEN NO. 1 AMENDED AND EXTENDED SUBDIVISION,
AND
FIRST SUPPLEMENT TO THE
DECLARATION OF PROTECTIVE COVENANTS
FOR
CARRIAGE CROSSING NO. 1 AND NO. 2**

This Declaration of Protective Covenants for Ken Olsen No. 1 Amended and Extended Subdivision, and First Supplement to the Declaration of Protective Covenants for Carriage Crossing No. 1 and No. 2, is made and executed by HOMEPOINT REALTY, INC., a Utah corporation, of 5003 Memory Lane, Holladay, UT 84117 (hereinafter referred to as "Declarant") and CARRIAGE CROSSING NO. 1 AND NO. 2 HOMEOWNERS ASSOCIATION, of 1305 N. Commerce Dr., Suite 230, Saratoga Springs, UT 84045 (hereinafter referred to as "Co-Declarant").

RECITALS

Whereas, the Declaration of Protective Covenants for the Carriage Crossing No. 1 and No. 2 Subdivision ("Carriage Crossing") was recorded in the office of the County Recorder of Salt Lake County, Utah on July 30, 1997 as Entry No. 6702116 in Book 7721 at Pages 2403-2055 of the Official Records (the "Declaration").

Whereas, the related Final Plat Maps for Phases 1, 2, 3 and 4 of the Carriage Crossing have also been recorded in the Office of the County Recorder of Salt Lake County, Utah (the "Project").

Whereas, Carriage Crossing Phases 1, 2, 3 and 4 are currently managed and controlled by Co-Declarant.

Whereas, the Final Plat Maps for Ken Olsen No. 1 Amended and Extended Subdivision Subdivision have been recorded in the Office of the County Recorder of Salt Lake County, Utah ("Ken Olsen No. 1").

Whereas, Declarant is the fee simple owner of Ken Olsen No. 1 located in Salt Lake County, Utah and described with particularity on Exhibit "A-5a" attached hereto and incorporated herein by this reference.

Whereas, Co-Declarant is the managing agent of the owners of or the fee simple owner of that certain real property heretofore described as the "Carriage Crossing Phase 5 Property" located in Salt Lake County, Utah and described with particularity on Exhibit "A-5b" attached hereto and incorporated herein by this reference.

Whereas, Article IV, Section 1 of the Declaration states that the Declaration may be amended by an instrument signed by a majority of the then owners of the subject property duly recorded, who have authorized by ballot and vote the President of the Co-Declarant to sign as their agent.

Whereas, a majority of the owners of the Carriage Crossing Phase 5 Property desire to amend the Declaration to annex additional land and expand the application of the Declaration.

Whereas, Declarant desires to expand the planned residential development by creating on Ken Olson No. 1 and the Carriage Crossing Phase 5 Property additional Lots and other improvements of a less significant nature (the "Additional Land").

Whereas, Declarant now intends that Ken Olson No. 1 and the Carriage Crossing Phase 5 Property shall become subject to the Declaration.

Whereas, Lot 2 of Ken Olsen No. 1 ("Lot 2") is owned by a third party.

Whereas, the parties intend that Lot 2 be excluded.

NOW, THEREFORE, for the reasons recited above, and for the benefit of the Ken Olsen No. 1 and Carriage Crossing No. 1 and No. 2, and the Lot Owners thereof, Declarant hereby executes this Declaration of Protective Covenants for Ken Olsen No. 1 Amended and Extended Subdivision and First Supplement to the Declaration of Protective Covenants for Carriage Crossing.

1. **Supplement to Definitions.** Article I of the Declaration, entitled "Definitions," is hereby modified to include the following supplemental definitions:

a. **First Supplemental Declaration** shall mean and refer collectively to the Declaration of Protective Covenants for Ken Olsen No. 1 Amended and Extended Subdivision and First Supplement to Declaration of Protective Covenants for Carriage Crossing No. 1 and No. 2.

b. **Phase 5 Map** shall mean and refer collectively to the Final Plat Maps of both Ken Olsen No. 1 and the Carriage Crossing Phase 5 Property, prepared and certified to by Michael D. Hoffman, a duly registered Utah Land Surveyor holding Certificate No. 316831, and

filed for record in the Office of the County Recorder of Salt Lake County, Utah concurrently with the filing of this First Supplemental Declaration.

c. **Subdivision** shall mean and refer collectively to Ken Olsen No. 1 and Carriage Crossing, Phases 1, 2, 3, 4 and 5, as they may be amended or expanded from time to time.

Except as otherwise herein provided, the definition of terms contained in the Declaration are incorporated herein by this reference.

2. **Legal Description.** The real property described in Exhibit A-5a and A-5b are hereby submitted to the provisions of the Declaration and said land shall be held, transferred, sold, conveyed and occupied subject to the provisions of the Declaration as it may be supplemented or amended from time to time.

3. **Annexation.** Declarant hereby declares that Ken Olsen No. 1 and Carriage Crossing Phase 5 shall be annexed to and become subject to the Declaration, which, upon recordation of this First Supplemental Declaration, shall constitute and effectuate the expansion of the Project, making the real property described in Exhibit A-5a and A-5b subject to the Declaration and the functions, powers, rights, duties and jurisdiction of the Co-Declarant and the Architectural Control Committee. Anything to the contrary notwithstanding, Lot 2 is expressly excluded hereby and is not hereby submitted to the First Supplemental Declaration.

4. **Description of Property and Total Number of Units Revised.** There are currently 89 Lots in Phases 1, 2, 3 and 4 at Carriage Crossing. As shown on the Phase 5 Map, five (5) new Lots and other improvements of a less significant nature are or will be constructed and/or created in the Subdivision on Ken Olson No. 1 and the Carriage Crossing Phase 5 Property. Upon the recordation of the Phase 5 Map and this First Supplemental Declaration, the total number of Lots at Carriage Crossing will be 94. The additional Lots (and the homes to be constructed therein) will consist of four (4) new single-story residences and one (1) residence on Lot 1 of the Ken Olsen No. 1 property, which may be either a single-story or two-story home. The additional Lots will be created and the homes will be constructed on Ken Olson No. 1 and the Carriage Crossing Phase 5 Property.

5. **Percentage Interest Revised.** With the additional Lots it is necessary to reallocate the undivided percentages of ownership interest in the Common Area and Facilities. Each Owner will have an equal 1/94 the undivided percentages of ownership interest in the Common Area and Facilities.

6. **Entry and Entry Monument.** Part of the existing Entry and Entry Monument to the Subdivision encroaches upon or will encroach upon a Lot in Ken Olson No. 1 and/or the Carriage Crossing Phase 5 Property. Declarant may remove the encroachment. Declarant shall submit to the Architectural Control Committee a proposed landscaping plan for the Entry and Entry Monument for its approval, which consent shall not be unreasonably withheld, conditioned

or delayed (the "Landscaping Plan"). Declarant shall complete the Entry and Entry Monument in accordance with the approved Landscaping Plan.

7. **Encroachments.** If any part of the Common Area and Facilities in the Ken Olson No. 1 and/or the Carriage Crossing Phase 5 Property encroaches or shall hereafter encroach upon a Lot or Lots therein, an easement for such encroachment and for the maintenance of the same shall and does exist; and if any part of a Lot therein encroaches or shall hereafter encroach upon said Common Area and Facilities, or upon an adjoining Lot or Lots, an easement for such encroachment and for the maintenance of the same shall and does exist. Such easements shall extend for whatever period the encroachment exists. Such encroachments shall not be considered to be encumbrances either on the Common Area and Facilities or the Lots. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of any improvement constructed or to be constructed within the Project, by error in the Phase 5 Map, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

a. **Encroachments.** Improvements, including Lots and Common Area and Facilities, constructed as subsequent phases of the Project may encroach upon portions of the Common Area and Facilities of earlier phases of the Project. A perpetual easement for such encroachment and the activities necessary to repair, maintain and operate such improvements is hereby granted.

b. **Access.** Each Owner shall have the right to ingress and egress over, upon and across the Common Area and Facilities as necessary for access to the Lot he is occupying and to any Common Area and Facilities appurtenant to his Lot, and shall have the right to the horizontal, vertical and lateral support of his Lot.

c. **Use of the Common Area and Facilities.** The Co-Declarant hereby reserves to itself and grants and conveys to the Declarant and its affiliates and assignees, and Declarant hereby reserves, a non-exclusive easement to make such use of the Common Area and Facilities as may be necessary or convenient to perform the duties and functions that each is obligated or permitted to perform pursuant to this Declaration, including, without limitation, the right to construct and maintain additional Common Area and Facilities for use by the Owners and the Co-Declarant.

d. **Temporary Construction Easement.** The Co-Declarant hereby reserves to itself and grants and conveys to Declarant and its affiliates and assignees, and Declarant hereby reserves, a temporary construction easement over the Common Area and Facilities for the purpose of doing all things that are reasonably necessary as a part of constructing any new improvements for the Project including all physical improvements as well as all Lots and Common Area and Facilities. The Owners do hereby acknowledge and agree that there will be construction activities, traffic, noises, odors and vibrations which may temporarily disrupt their quiet enjoyment of their Lots and the Common Area and Facilities appurtenant thereto until all improvements are complete, and such Owners do hereby waive any right to object to such

construction activity; provided, however, Declarant shall endeavor to use reasonable efforts to minimize the adverse impact of such construction activities on the Owners.

e. **Access Easement for Maintenance and Repair of Utilities.** The Co-Declarant hereby reserves to itself and grants and conveys to Declarant and its affiliates and assignees, and Declarant hereby reserves, over, through and under the Property for ingress to, egress from, and installation, replacement, repair and maintenance of all utility and service lines and systems, including, without limitation, water, sewer, gas, telephone, electricity and cable communication that service the Property or any portion thereof as well as any such lines and systems which service property owned by the Declarant.

f. **Easement for Entry Road Landscape Strip; Open Space.** With regard to the Carriage Crossing Phase 5 Property, the Co-Declarant hereby reserves to itself and grants and conveys to Declarant and its affiliates and assignees, and Declarant hereby reserves, a non-exclusive easement over, through and under that certain portion of the Common Area and Facilities, to wit: Access from Stonefield Road, including the landscape strip of land on the North side of the entry and entrance road to the subdivision for ingress to, egress from, and installation, replacement, repair and maintenance of two driveways, curbs, gutters, and related improvements intended to service two of the additional Lots for use as two driveways and as "open space."

1) If Sandy City shall adopt an ordinance which contains a definition of the term "open space" and which makes such definition applicable to the subdivision, that definition shall be incorporated into this easement by reference.

2) In the absence of such a definition, the term "open space" shall mean that driveways, grass, trees, shrubs, bushes, planting beds, landscaping, open and green space are permitted; and temporary or permanent buildings or building-type structures or any kind, impervious surfaces other than those used only for activities permitted by subsection (a) hereof, operation, parking or storage of motorized vehicles of any kind except those used for landscaping maintenance, machinery which is affixed to the property and which can be seen or heard from adjacent property, noxious or offensive activities of any kind, any activity which is or which may become a nuisance, and dumping or storage of refuse, garbage or other waste are prohibited. Authorized motor vehicles may be parked in the driveways.

3) For use herein the term "Recreational, Oversized or Commercial Vehicle" shall mean and refer to any recreational, commercial or oversized vehicle, motor home, commercial vehicle, tractor, golf cart, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft, boat trailer, or any other recreational or commercial transportation device of any kind.

4) The driving, parking, standing and storing of motor vehicles in the Ken Olson No. 1 and the Carriage Crossing Phase 5 Property shall be subject to the following:

a) The parking rules and regulations adopted by the Management Committee from time to time;

b) Since the parking areas are not designed for Recreational, Commercial or Oversized motor vehicles and the Management Committee has the right to make rules and regulations restricting or prohibiting their use and, unless otherwise determined by the Management Committee, all Recreational, Commercial and Oversized Vehicles shall be parked as defined in the parking rules and regulations as adopted or amended by the Management Committee from time to time.

c) No motor vehicle or trailer may be parked or stationed in such a manner so as to create a potentially dangerous situation.

d) No motor vehicle or trailer may be parked or stationed in or along any street or road, or in front of any garage, walkway, driveway, building or Lot, or in an unauthorized Common Area.

e) Residents may not park their motor vehicles in red zones, fire lanes, guest or visitor parking, or other unauthorized areas.

f) No Owners or Residents shall repair or restore any vehicle of any kind in, on or about any Lot or the Common Area, except for emergency repairs, and then only for a seventy-two (72) hour period to enable movement thereof to a proper repair facility.

g) Each home constructed upon the Lots shall have not less than a standard two car attached garage. No garage may be altered in such a manner that two standard sized cars may not be parked therein.

h) No motor vehicle or trailer shall be parked in such a manner as to obstruct, block or impair access to a Lot, driveway, road, garage, entry or exit.

7. Maintenance Responsibilities. Anything to the contrary notwithstanding, the Lot Owners in Ken Olson No. and the Carriage Crossing Phase 5 Property shall at their sole expense:

a. Water the landscaping, open space, grass, plants, flower beds and planting areas in said property at their sole cost and expense;

b. Maintain their irrigation and sprinkling systems; and

c. Maintain the concrete, cement, and other similar impervious surfaces therein.

The landscaping shall be maintained and cared for in a manner consistent with the standards of design and quality of Phases 1, 2, 3 and 4. Any weeds or diseased or dead lawn, trees, ground

cover or shrubbery shall be removed and replaced. The lawns shall be mowed and edged. The trees, bushes and shrubs shall be topped and trimmed. No landscaping may adversely affect the value or use of any other Lot, or to detract from the uniform design and appearance of Carriage Crossing. If, after written notice and a hearing, it is determined that any responsible Lot Owner has failed or refused to discharge properly his obligation with regard to the maintenance, repair, or replacement of Ken Olson No. 1 and the Carriage Crossing Phase 5 Property or that the need for maintenance, repair, or replacement thereof is caused through the willful or negligent act of a Lot Owner, then the Co-Declarant may, but is not obligated to, provide such maintenance, repair, or replacement at the defaulting or responsible Lot Owner's sole cost and expense (the "Default Maintenance Cost"). The Default Maintenance Cost is the debt of such defaulting or responsible Lot Owner at the time the expense is paid and shall be collectible as such. A lien may be filed by the Co-Declarant against the property to secure payment. A fine may also be charged.

8. **Snow and Ice Accumulations.** The Owners of Lots in Ken Olson No. 1 and the Carriage Crossing Phase 5 Property shall be responsible for the removal of all ice and snow accumulations from their driveways, walks, steps and landings at their sole expense.

9. **Declarant's Sales Program.** Anything to the contrary notwithstanding, until Declarant has sold all Lots owned by it, or the expiration of five (5) years following the date on which the First Supplemental Declaration is filed for record in the Office of the County Recorder, whichever first occurs, the following provisions shall be deemed to be in full force and effect. Neither the Owners, the Co-Declarant, Management Committee, nor the Architectural Control Committee shall interfere with the completion of improvements and sale of Declarant's Lots, and Declarant shall have the following rights in furtherance of any sales, promotions or other activities designed to accomplish or facilitate the sale of all Lots owned by Declarant:

a) **Sales Office and Model Lots.** Declarant shall have the right to maintain one (1) or more sales offices and one (1) or more model Lots at any one time. Such office and/or models may be one or more of the Lots owned by the Declarant, one or more separate structures or facilities placed on the Property for the purpose of aiding Declarant's sales effort, or any combination of the foregoing;

b) **Promotional.** Declarant shall have the right to maintain a reasonable number of promotional, advertising and/or directional signs, banners or similar devices at any place or places on the Property in accordance with city ordinances.

c) **Common Area Use.** Declarant shall have the right to use the Common Area of the Project in any way necessary to facilitate sales.

d) **Relocation and Removal.** Declarant shall have the right from time to time to locate or relocate any of its sales offices, models, or signs, banners or similar devices, but in connection with each such location or relocation shall observe the limitations imposed by the preceding portion of this Section. Within a reasonable period of time after the happening of the Event, Declarant shall have the right to remove from the Project any signs, banners or similar

devices and any separate structure or facility which was placed on the Property for the purpose of aiding Declarant's sales effort.

e) **Limitation on Improvements by Declarant.** Until such time as the earlier of the following events occur: (a) all of the Additional Land has been added and the Declarant has sold or rented all of the Lots, or (b) five (5) years after the date of the sale of the first Lot in Ken Olson No. or the Carriage Crossing Phase 5 Property, or (c) such time as Declarant chooses, neither the Co-Declarant, Management Committee nor the Architectural Control Committee shall, without the written consent of Declarant, make any improvement to or alteration in any of the Common Area and Facilities created or constructed by Declarant, other than such repairs, replacements, or similar matters as may be necessary to properly maintain the Common Area as originally created or constructed by Declarant in Ken Olson No. 1 and/or the Carriage Crossing Phase 5 Property.

f) **Duty to Pay Assessments and Share of Common Expenses.** The Declarant (or his successors in interest) shall be obligated to pay his portion of the Common Expenses or Assessments when a residence is sold or sixty (60) days after the final certificate of occupancy is issued, whichever first occurs.

g) **Completion Obligation.** Declarant hereby covenants in favor of each Owner that (1) the Common Area improvements in Ken Olson No. 1 and/or the Carriage Crossing Phase 5 Property, including all planned landscaping, green space, sidewalks, roads, fences, outdoor lighting, and utility lines and conduits adjacent to a Lot and necessary for its use, shall be completed within eighteen (18) months from the effective date of this document, (2) each home shall be completed within eighteen months after commencement of construction.

h) **Declarant's Rights Assignable.** All of the rights of Declarant under this instrument may be assigned or transferred either by operation of law or through a voluntary conveyance, transfer or assignment. Any mortgage covering Ken Olson No. 1 and/or the Carriage Crossing Phase 5 Property title to which is vested in Declarant or Co-Declarant shall, at any given point in time and whether or not such mortgage does so by its terms, automatically cover, encumber, and include all of the then unexercised or then unused rights, powers, authority, privileges, protections and controls which are accorded to Declarant or Co-Declarant (in their respective capacity as Declarant or Co-Declarant) herein.

i) **Architectural Control Committee.** The Declarant shall consult with, and use its best efforts to consider and incorporate the advice and the design and planting guidelines of the Architectural Control Committee, regarding the landscaping improvements to the Common Area, including the Entry, Entry Monument and open space along the road entering the Project, although the consent of the Architectural Control Committee shall not be unreasonably withheld, conditioned or delayed.

10. **Separate Taxation.** Each Lot and its percentage of undivided interest in the Common Area and Facilities shall be considered to be a parcel and shall be subject to separate assessment and taxation by each assessing Lot and special district for all types of taxes

authorized by law, including ad valorem levies and special assessments. The Common Area and Facilities in Ken Olson No. 1 and the Carriage Crossing Phase 5 Property may be considered a parcel for tax purposes.

11. **To Satisfy Requirements of Lenders.** Anything to the contrary notwithstanding, Declarant and Co-Declarant reserve to themselves the unilateral right to amend all or any part of this document to such extent and with such language as may be requested by the State Department of Real Estate (or similar agency) or a bonafide Lender and to further amend to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of this Declaration or approval of the sale of Lots, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Lot, or any portions thereof. Any such amendment shall be effected by the recordation by Declarant of an Amendment duly signed by the Declarant and Co-Declarant, specifying the federal, state or local governmental agency or the federally chartered lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. Recordation of such an Amendment shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such Amendment, when recorded, shall be binding upon all Lots and all persons having an interest therein.

12. **Effective Date.** The effective date of this First Supplemental Declaration and the Phase 5 Map shall be the date on which said instruments are filed for record in the Office of the County Recorder of Salt Lake County, Utah.

Dated the 2ND day of January, 2008.

DECLARANT:
HOMEPOINT REALTY, INC


By: 
Name: John C. Phillips
Title: President

EXHIBIT "A-5a"
LEGAL DESCRIPTION

The Property referred to in the foregoing document as the Ken Olsen No. 1 Amended and Extended Subdivision is located in Salt Lake County, Utah and is described more particularly as follows:

LOT 1, KEN OLSEN NO.1 AMENDED AND EXTENDED SUBDIVISION AS RECORDED WITH THE OFFICE OF THE SALT LAKE COUNTY RECORDER.

EXCLUDING LOT 2.

EXHIBIT "A-5b"
LEGAL DESCRIPTION

The Property referred to in the foregoing document as Carriage Crossing No. 5 Phase is located in Salt Lake County, Utah and is described more particularly as follows:

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE CENTERLINE OF 1000 EAST STREET, SAID POINT BEING NORTH 00°10'00" EAST ALONG THE SECTION LINE 1250.00 FEET FROM THE SOUTH QUARTER CORNER OF SAID SECTION 32, AND RUNNING THENCE ALONG SAID CENTERLINE SOUTH 00°10'00" WEST 260.00 FEET; THENCE NORTH 89°50'00" WEST 33.00 FEET TO A POINT ON THE WEST LINE OF SAID 1000 EAST STREET; THENCE NORTH 00°10'00" EAST ALONG SAID WEST LINE 84.97 FEET TO A POINT ON EXTENSION OF THE NORTHERLY LINE OF PARCEL B CARRIAGE CROSSING NO. 1 SUBDIVISION, AS RECORDED WITH THE OFFICE OF THE SALT LAKE COUNTY RECORDER; THENCE WESTERLY ALONG SAID NORTHERLY LINE AND LINE EXTENDED AND THE EASTERLY LINE OF SAID CARRIAGE CROSSING NO. 1 THE FOLLOWING (4) COURSES: (1) SOUTH 89°59'17" WEST 168.58 FEET, (2) NORTH 00°25'11" EAST 158.84 FEET, (3) NORTH 88°58'55" WEST 44.00 FEET, (4) NORTH 00°25'11" EAST 47.57 FEET TO THE SOUTHWESTERLY CORNER OF KEN OLSEN NO. 1 AMENDED AND EXTENDED SUBDIVISION, AS RECORDED WITH THE OFFICE OF THE SALT LAKE COUNTY RECORDER; THENCE SOUTH 89°50'00" EAST ALONG THE SOUTHERLY LINE OF SAID SUBDIVISION 204.66 FEET TO THE WEST LINE OF SAID 1000 EAST STREET; THENCE SOUTH 00°10'00" WEST ALONG SAID WEST LINE 31.50 FEET; THENCE SOUTH 89°50'00" EAST 40.00 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPTING AREA WITHIN 1000 EAST STREET RIGHT OF WAY.