

**AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND
RESTRICTIONS
OF
FOREST CREEK
(A Planned Unit Development)**

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AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
FOREST CREEK

THIS AMENDED AND RESTATED DECLARATION made and executed this 30th day of October, 2009, by THE FOREST CREEK HOMEOWNERS ASSOCIATION, a Utah non-profit corporation (the "Association") with its principal place of business located in Salt Lake City, State of Utah.

RECITALS:

A. WATTS 89, INC., as the original record owner of that certain tract of Property more particularly described in Article II of this Declaration, filed the original Declaration of Covenants, Conditions and Restrictions in relation to such Property on January 28, 1994.

B. The original Declarant is no longer a record owner of any parcel of the Property, and the Owners, as hereinafter defined, are now the record owners of their respective parcels that make up the Property.

C. The Association and the Owners filed an amended and restated Declaration of Covenants, Conditions, and Restrictions dated July 12, 2005 and recorded August 5, 2005 to update the original Declaration and to clarify certain provisions found within the original Declaration.

D. The Association and the Owners now hereby desire to amend and restate the Amended and Restated Declaration of Covenants, Conditions, and Restrictions to update the Amended and Restated Declaration and to clarify certain provisions found within the Declaration dated July 12, 2005 and recorded August 5, 2005.

NOW, THEREFORE, the Association hereby covenants, agrees and declares that all of the Property described in Article II hereof shall be held, transferred, sold, conveyed, occupied and used subject to the covenants, restrictions, conditions, easements, charges, assessments, obligations, and lien hereinafter set forth.

I. DEFINITIONS

1.1. Association shall mean and refer to the Forest Creek Homeowners' Association, a Utah nonprofit corporation.

1.2. Board shall mean and refer to the Board of Trustees of the Association as duly elected in accordance with the terms and conditions of the Articles of Incorporation and Bylaws of the Association.

1.3. Common Areas shall mean and refer to that part of the Property which is not included with the Lots which is owned by the Association for the common use and enjoyment of the Owners, together with all improvements thereon and all easements appurtenant thereto including but not limited to private utility lines and fixtures and other personal property owned by the Association when the context so requires.

1.4. Declaration shall mean and refer to this Amended and Restated Declaration of Covenants, Conditions and Restrictions.

1.5. Development shall at any point in time mean, refer to, and consist of the Subdivision then in existence at the date of this Declaration.

1.6. Living Unit shall mean and refer to a structure which is designed and intended for use and occupancy as a single-family residence, together with all improvements located on or with respect to the Lot concerned which are used in connection with such residence.

1.7. Lot shall mean and refer to any one of the 34 separately numbered and individually described plots of land described on the Plat of record on file in the office of the County Recorder of Salt Lake County, Utah as at the date of this Declaration: (a) which is intended to be owned individually, rather than by an association of Owners or in common by Owners of different lots; and (b) which is intended to be used as the site of a single Living Unit.

1.8. Member shall mean and refer to every person who holds a membership in the Association.

1.9. Mortgage shall mean any mortgage, deed of trust or trust deed or the act of encumbering any Lot or any property by a mortgage, trust deed or deed of trust.

1.10. Mortgagee shall mean any person named as a mortgagee of a mortgage or beneficiary under or holder of a deed of trust.

1.11. Owner shall mean and refer to the person who is the Owner of record (in the office of the County Recorder of Salt Lake County, Utah) of a fee or an undivided interest in any Lot. Notwithstanding any applicable theory relating to a mortgage, deed of trust or like instrument, the term "Owner" shall not mean or include a mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

1.12. Occupant shall mean any person residing in any Living Unit on a Lot.

1.13. Parcel shall mean and refer to the Property which is subject to this Declaration, which is filed for record in the office of the County Recorder of Salt Lake County, Utah, is separately subjected to the terms of this Declaration with the intention that it shall thereby comprise the Development. The real property described in Article II of this Declaration constitutes the Parcel.

1.14. Plat shall mean and refer to the subdivision plat of Forest Creek Planned Unit Development recorded in the office of the County Recorder of Salt Lake County, Utah on January 28, 1994 as Entry No. 5725396 in Book 94-1, at Page 25, as amended by that certain plat

of Forest Creek P.U.D. Amending Lots 8, 9, and 10 recorded in the office of the County Recorder of Salt Lake County, Utah on August 29, 2005 as Entry No. 9474395, which subdivision consists of 34 Lots.

1.15. Private Streets shall mean and refer to all of the undedicated roads and streets within the Subdivision as designated upon the Plat which the Declarant and the Owners have reserved as an easement for ingress and egress for pedestrian and vehicular traffic for the use, in common, of Members. Private Streets shall for all purposes be deemed to be Common Areas.

1.16. Property shall mean and refer to all of the real property which is covered by the Plat.

1.17. Subdivision shall mean and refer to the entire residential development known as Forest Creek Planned Unit Development and covered by the Plat.

1.18. Tenant shall mean someone who pays rent to an Owner to use and occupy a Lot or Living Unit.

II. PROPERTY SUBJECT TO THIS DECLARATION

2.1. Property Hereby Subjected to the Declaration. The real property which is, by the recording of the Declaration, subject to the covenants, restrictions and easements hereinafter set forth and which, by virtue of the recording of this Declaration, shall be held, transferred, sold, conveyed, used, occupied and encumbered subject to the provisions of this Declaration, consists of the following-described real property situated in Salt Lake County, State of Utah, which is also described and included in the Plat

SEE THE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "A"
AND INCORPORATED HEREIN BY REFERENCE.

III. MEMBERSHIP AND VOTING RIGHTS

3.1. Membership. Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to the Lot in which the Owner has the necessary interest, and shall not be separated from the Lot to which it appertains.

3.2. Voting Rights. Members will be entitled to one vote for each Lot owned in the Subdivision. The Board may suspend the voting rights of an Owner for any period during which any past due assessment against any Lot of the Owner remains unpaid; and, for a reasonable period of time, as determined by the Board, following an infraction of the Declaration, Bylaws or rules and regulations of the Association.

3.3. Multiple Ownership Interests. In the event there is more than one Owner of a particular Lot, the vote relating to such Lot shall be exercised as such Owners may determine among themselves. A vote cast at any Association meeting by any such Owners, whether in person or by proxy, shall be conclusively presumed to be the vote attributable to the Lot concerned unless an objection is immediately made by another Owner of the same Lot. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

3.4. Record of Ownership and Mortgages. Every Owner shall promptly notify the secretary of the Association of any change in legal ownership, or in the case of a contract buyer, a copy of the sales contract, of any Lot. The secretary shall maintain a record of ownership of the Lots.

Any Owner who mortgages his Lot or any interest therein by a mortgage which has priority over the lien of any assessment provided herein shall notify the secretary of the Association of the name and address of the Mortgagee and also of the release of such Mortgage; and the secretary of the Association shall maintain all such information in the records of ownership. Any cost incurred by the Association in obtaining the information about an Owner as specified herein which is not furnished by such Owner shall nevertheless be at the expense of such Owner and shall be reimbursed to the Association as a "Reimbursement Assessment" in accordance with the provisions of Section 5.5.

IV. PROPERTY RIGHTS IN COMMON AREAS

4.1. Easement of Enjoyment. Each Member shall have a right and easement of use and enjoyment in and to the Common Areas and the Private Streets. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated there from. Any Member may delegate the right and easement of use and enjoyment described herein to any family member, Tenant, Occupant, lessee or contract purchaser who resides on such Member's Lot.

4.2. Form for Conveyance. Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering title to a Lot shall describe the interest or estate involved substantially as follows:

Lot No. _____, contained within the Forest Creek Planned Unit Development, as the same is identified in the Plat recorded in Book _____, at Page _____, of the official records of the Salt Lake County Recorder. TOGETHER WITH a right and easement of use and enjoyment in and to the Common Areas and Private Streets described and provided for in said Declaration of Covenants, Conditions and Restrictions and in the Record of Survey Map in the official record of the Salt Lake County Recorder.

Whether or not the description employed in any such instrument is in the above-specified form, however, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot.

4.3. Transfer of Title. Declarant has conveyed to the Association title to the various Common Areas free and clear of all liens (other than the lien of current general taxes and the lien of any assessments, charges, or taxes imposed by governmental or quasi-governmental authorities.

4.4. Limitation on Easement of Enjoyment. A Member's right and easement of use and enjoyment concerning the Common Areas and Private Streets shall be subject to the following:

(a) The right of the Association to impose reasonable limitations on the number of guests per Member who at any given time are permitted to use the Common Areas;

(b) The right of the Association to temporarily or permanently revoke the right to use the Common Areas by a Tenant, Occupant, lessee or contract purchaser for infractions of this Declaration; (c) The right of the Architectural Control Committee to approve and designate the point of access from a Lot to the Private Streets in accordance with the requirements of Article VIII;

(d) The right of the County of Salt Lake and any other governmental or quasi-governmental body having jurisdiction over the Property to access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Property for purposes of providing police and fire protection, transporting school children, and providing any other governmental or municipal service; and

(e) The right of the Association to dedicate or transfer all or any part of the Common Areas, the Private Streets and any sewer, water and storm drain trunk lines to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association. Any such dedication or transfer must, however, be assented to by (i) all holders of first Mortgages secured by Lots and (ii) by two-thirds (2/3) of the vote of the Membership which Members present in person or by proxy are entitled to cast at a meeting duly called for that purpose written or printed notice setting forth the purpose of the meeting and the action proposed shall be sent to all Members at least ten (10) but not more than thirty (30) days prior to the meeting date.

(f) The right of the Association to promulgate and enforce such reasonable rules, regulations and procedures as may be necessary or desirable to aid the Association in carrying out any of its functions or to insure that the Common Areas and the Private Streets are maintained and used in a manner consistent with the interest of the Owners.

V. ASSESSMENTS

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

5.2. Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, and welfare of residents of the Property, including but not limited to the appearance and aesthetics of the Development. The use made by the Association of funds obtained from assessments may include, but is not limited to, payment of the cost of taxes and insurance on the Common Areas; maintenance, repair and improvement of the Common Areas; establishing and funding a reserve to cover major repair or replacement of improvements within the Common Areas; and any expenses necessary or desirable to enable the Association to perform or fulfill its obligations, functions or purposes under this Declaration or its Articles of Incorporation.

5.3. Monthly Assessment. Each Lot shall be subject to a monthly assessment. At the time of this Declaration, the monthly assessment is \$100.00. The monthly assessment may be increased or decreased so long as the change is assented to by not less than a majority of the Members, present in person or represented by proxy at a meeting duly called for such purposes. Written notice setting forth the purpose of the meeting shall be sent to all Members at least Ten (10) but not more than Thirty (30) days prior to the meeting date. The Board of Trustees of the Association may from time to time and in its discretion set the amount of the monthly assessment at any sum providing the Members duly approve the monthly assessment as required in this section. If a Lot changes ownership the monthly assessment will be pro rated between the Owners based on the number of days remaining in the month of ownership transfer.

5.4. Special Assessments. From and after the date set under Section 5.7, the Association may levy special assessments for the purpose of defraying, in whole or in part: (a) any expense or expenses not reasonable capable of being fully paid with funds generated by monthly assessments; or (b) the cost of any construction, reconstruction or unexpectedly required repair or replacement in connection with the Common Areas. Any such special assessments must be assented to by not less than a majority of the Members, present in person or represented by proxy are entitled to cast at a meeting duly called for the purpose. Written notice setting forth the purpose of the meeting shall be sent to all Members at least Ten (10) but not more than Thirty (30) days prior to the meeting date.

5.5. Reimbursement Assessment on Specific Lot. In addition to the monthly assessment and any special assessment authorized pursuant to Sections 5.3 and 5.4 above, the Board may levy at any time Special Assessments (a) on each Lot specifically benefited by any improvement to adjacent roads, sidewalks, planting areas or other portions of the Common Areas made on the written request of the Owner of the Lot to be charged; (b) on each Lot the Owner or Occupant of which shall cause any damage to the Common Areas necessitating repairs; and (c) on each Lot as to which the Association shall incur any expense for maintenance or repair work performed, or enforcement action taken, pursuant to Section 3.4, Section 6.1(c), Section 6.2(a) or any other provisions of this Declaration (all or part of the foregoing being sometimes referred to as "Reimbursement Assessment"). The aggregate amount of any such Special Assessments shall be determined by the cost of such improvements, repairs, maintenance or enforcement action, including all overhead and administrative costs and attorney's fees, and shall be allocated among the affected Lots according to the special benefit or cause of damage or maintenance or repair work or enforcement action, as the case may be, and such assessment may be made in advance of the performance of work. If a special benefit arises from any improvement which is part of the general maintenance obligations of the Association, it shall not give rise to a Reimbursement Assessment against the Lots benefited.

5.6. Uniform Rate of Assessment. Except as provided in Section 5.5 above, monthly and special assessments shall be fixed at an equal rate for all Lots.

5.7. Assessment Due Dates. Assessments may be billed by the Association in advance or in arrears and monthly assessments may not exceed three months of billing. Owners shall have the option to pay the assessments either monthly or quarterly. In no event, however, shall an Owner not pay the assessments at least quarterly. Assessments billed in arrears shall be deemed late if not paid within thirty (30) days following the invoice date. Assessments billed in advance shall be deemed late if not paid prior to thirty (30) days following the month in which the assessment is due. If the balance owed by any Owner for assessments or any other payments as discussed herein exceeds \$900.00 and are deemed to be late, then the Association may take the actions outlined in Section 5.9 below, including, without limitation, filing a lien against the Owner's Lot and taking actions to enforce such lien.

5.8. Certificate Regarding Payment. Upon the request of any Owner or prospective purchaser or encumbrance of a Lot the Association shall issue a certificate stating whether or not all assessments respecting such Lot are current and, if not, the amount of the delinquency. Such certificate shall be conclusive in favor of all persons who in good faith rely thereon.

5.9. Effect of Non-Payment; Remedies. Any assessment or other payments due hereunder not paid when due shall, together with the hereinafter provision for interest and costs of collection, constitute and remain a continuing lien on the affected Lot; provided, however, that any such lien will be subordinate to the lien or equivalent security interest of any first mortgage on the Lot recorded prior to the date any such assessments became due. If the assessment is not paid within sixty (60) days after the date on which it becomes delinquent, the amount thereof shall bear interest from the date of delinquency at a rate determined by the Board from time to time but shall not exceed the maximum rate allowed by law and the Association may bring an action either against the Owner who is personally liable or to foreclose the lien against the Lot. Any judgment obtained by the Association shall include reasonable attorneys' fees, court costs, and each and every expense incurred by the Association in enforcing its rights.

5.10. Tax Collection by County Authorized. It is recognized that under the Declaration the Association will own the Common Areas and that it will be obligated to pay property taxes to Salt Lake County. It is further recognized that each Owner of a Lot as a Member of the Association will be required to reimburse the Association for his pro rata share of such taxes paid. Notwithstanding anything to the contrary contained in the Declaration, Salt Lake County shall be authorized to collect such pro rata share of taxes directly from each Owner by inclusion of said share with the tax levied on each Lot.

VI. DUTIES AND POWERS OF THE ASSOCIATION

6.1. Duties of the Association. Without limiting any other duties which may be imposed upon the Association by its Articles of Incorporation, its Bylaws or this Declaration; the Association shall have the obligation and duty to do and perform each and every one of the following for the benefit of the Owners and the maintenance and improvement of the Property:

- (a) The Association shall accept all Owners as Members of the Association.

(b) The Association shall accept title to all Common Areas.

(c) The Association shall maintain, repair, and replace all landscaping and improvements in the Common Areas, including but not limited to the maintenance of all exterior trees, shrubs, grass, Private Streets and other Common Area improvements. Association shall have no obligation to perform any exterior maintenance and/or repair of any part of a Living Unit or any other landscaping installed by an Owner without the Association's express agreement to maintain such landscaping.

As provided in Section 7.10, each Owner shall have the obligation to provide exterior maintenance of his Living Unit including but not limited to painting, repair, replacement and care of roofs, gutters, downspouts, exterior building surfaces, and landscaping installed by an Owner or his predecessor in title. Each Owner shall paint, repair, and otherwise maintain the exterior and interior of his Living Unit and shall maintain all mechanical devices, including but not limited to, appurtenant electrical, plumbing and heating, ventilating and air conditioning systems.

In the event that the need for maintenance or repair of Common Areas as specified herein is caused through the willful or negligent acts of an Owner, or through the willful or negligent acts of the family, guests, Tenants, Occupants or invitees of an Owner, the Board may cause such repairs to be made by the Association and the cost of such maintenance or repair (and administrative expenses equal to ten (10%) percent of such costs) shall be added to and become part of the Reimbursement Assessment (as set forth in Section 5.5) to which such Lot is subject.

(d) To the extent not assessed to or paid by the Owners directly, the Association shall pay all real property taxes and assessments levied upon any portion of the Common Areas, provided that the Association shall have the right to contest or compromise any such taxes or assessments.

(e) The Association shall obtain and maintain in force the policies of insurance required by the provisions of this Declaration.

(f) The Association may employ a responsible corporation, partnership, firm, person or other entity as the managing agent to manage and control the Common Areas, subject at all times to direction by the Board, with such administrative functions and powers as shall be delegated to the managing agent by the Board. The compensation of the managing agent shall be such as shall be specified by the Board. Any agreement appointing a managing agent shall be terminable by either party, with or without cause and without payment of any termination fee, upon thirty (30) days written notice thereof; and the term of any such agreement may not exceed one year, renewable by agreement of the parties for successive one-year periods. Any managing agent may be an independent contractor and not an agent or employee of the Association.

6.2. Powers and Authority of the Association. The Association shall have all the powers set forth in its Articles of Incorporation and its Bylaws, together with its general powers as a nonprofit corporation, and the power to do any and all things which may be authorized, required or permitted to be done by the Association under and by virtue of this Declaration,

including the power to levy and collect assessments as hereinafter provided. Without in any way limiting the generality of the foregoing, the Association shall have the following powers:

(a) The Association shall have the power and authority at any time and from time to time and without liability to any Owner for trespass, damage or otherwise, to enter upon any Lot for the purpose of maintaining and repairing such Lot or any improvement thereon if for any reason the Owner fails to maintain and repair such Lot or improvement, or for the purpose of removing any improvement constructed, reconstructed, refinished, altered or maintained upon such Lot in violation of Article VII of this Declaration. The Association shall have the right to permit access to the Subdivision through any and all entrances, subject to governmental requirements, and to close all or any portion of a Private Street to such extent as may be legally sufficient to prevent a dedication thereof or the accrual of any right therein to any person or the public. The Association shall also have the power and authority from time to time in its own name, on its own behalf, or in the name and behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or any rules and regulations promulgated by the Board, or to enforce by mandatory injunction or otherwise all of the provisions of this Declaration and such rules and regulations.

(b) In fulfilling any of its duties under this Declaration, including its duties for the maintenance, repair, operation or administration of the Common Areas (and exterior repairs of Living Units or Lots to the extent necessitated by the failure of the Owners of such Lots) or in exercising any of its rights to construct, maintain and repair improvements or other work upon any of the Common Areas, and provided that any contract for goods or services having a term of more than one (1) year shall state that it may be terminated by either party at the end of the first year or at any time thereafter upon no less than ninety (90) days written notice, the Association shall have the power and authority (i) to pay and discharge any and all liens placed upon any Common Areas on account of any work done or performed by the Association in the fulfillment of any of its obligations and duties of maintenance, repair, operation or administration and (ii) to obtain, contract and pay for, or to otherwise provide for:

i. Construction, maintenance, repair and landscaping of the Common Areas (and exterior repairs of Living Units or Lots to the extent necessitated by the failure of Owners of such Lots) on such terms and conditions as the Board shall deem appropriate.

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

iii. Such utility services, including (without limitation) water, sewer, trash removal, snow removal, electrical, telephone and gas services, as the Board may from time to time deem desirable;

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

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

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

(c) The Board may delegate by resolution or contract to the managing agent, if one is appointed pursuant to Section 6.1(f) above, any of its powers under this Declaration; provided, however, that the Board cannot delegate to such managing agent the power to execute any contract binding on the Association for a sum in excess of One Thousand Dollars (\$1,000.00), nor the power to sell, convey, mortgage, or encumber any Common Areas.

6.3. Association Rules. The Board from time to time and subject to the provisions of this Declaration, may adopt, amend, repeal and enforce rules and regulations governing, among other things: (a) the use of the Common Areas; (b) the use of any roads or utility facilities owned by the Association; (c) the collection and disposal of refuse; (d) the maintenance of animals on the Property; (e) the use of Living Units for business or rental purposes; and (f) other matters concerning the use and enjoyment of the Property and the conduct of residents. The Board may also adopt additional Architectural Guidelines for the construction of Living Units. Rules and Regulations and/or Architectural Guidelines adopted by the Board may be enforced in accordance with the provisions of Section. All Owners, family members, Tenants, Occupants shall be subject to and required to observe the rules and regulations adopted by the Board and all leases of any Lot or Dwelling Unit shall include a covenant on the part of the Tenant to observe the rules and regulations.

6.4. Ability to Assess and Enforce Fines. In accordance with general powers and responsibilities granted to the Board in this Declaration and in the Bylaws of the Association, the Board shall have the right to assess fines against any Owner for violations of any provision of this Declaration. Before assessing such fine, the Board shall deliver written notice of the violation to the Owner in question. Such written notice shall include specific details related to the nature of the violation, the possible solutions for rectifying the violation, and the amount of the fine that will be assessed if the violation is not rectified within thirty (30) days following the date of the written notice, or if the remedy for such violation would take longer than thirty (30) days, if the actions necessary to remedy such violation are not undertaken within thirty (30) days. The Board shall have the authority to determine the amount of the fine and shall base the amount of such fine in approximate relation to the seriousness of the violation. If such Owner does not remedy the violation to the satisfaction of the Board within thirty (30) days of receiving such written notice, the Board shall assess the fine against the Owner and shall deliver written notice to the Owner stating that the fine has been assessed. Once assessed, the fine shall be immediately due and payable and shall be considered delinquent if not so paid. The Board shall then have the same remedies as set forth in Section 5.9, above, to collect such delinquent fines,

including placing a lien against the Owner's Lot and bringing an action against the Owner or to foreclose the lien against the Lot.

6.5. Limitation of Liability. No member of the Board acting in good faith shall be personally liable to any Owner, Occupant, guest, Tenant or lessee or any other person for any error or omission of the Association, its representatives and employees, the Board, any committee or the managing agent.

6.6. Insurance. The Association shall secure and at all times maintain the following insurance coverage:

(a) Policy or policies of fire and casualty insurance, with extended coverage endorsement, for the full insurable replacement value of all improvements comprising a part of the Common Areas. The name of the insured under each such policy shall be in form and substance similar to: "The Forest Creek Homeowner's Association for the use and benefit of the individual Lot Owners and Mortgagees, as their interests may appear".

(b) A policy or policies insuring the Owners, the Association, and its directors, officers, agents, and employees against any liability incident to the ownership, use or operation of the Common Areas which may arise among themselves, to the public, and to any invitees or tenants of the Property or of the Owners. Limits of liability under such insurance shall be not less than \$500,000 for any one person injured; \$3,000,000 for all persons injured in any one accident; and \$100,000 for property damage resulting from one occurrence. Such policies shall be issued on a comprehensive liability basis and shall provide a cross-liability endorsement pursuant to which the rights of the named insured as between themselves are not prejudiced.

The following additional provisions shall apply with respect to insurance:

(1) In addition to the insurance described above, the Association shall secure and all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with developments similar to the Property in construction, nature and use.

(2) All policies shall be written by a company holding a rating of "AA" or better from Best's Insurance Reports.

(3) The Association shall have the authority to adjust losses.

(4) Insurance secured and maintained by the Association shall not be brought into contribution with insurance held by the individual Owners or their mortgagees.

(5) Each policy of insurance obtained by the Association shall, if reasonably possible, provide: a waiver of the insurer's subrogation rights with respect to the Association, the Owner, and their respective directors, officers, agents, employees, invitees, and tenants; that it cannot be cancelled, suspended or invalidated due to the conduct of any particular Owner or Owners; that it cannot be cancelled, suspended or invalidated due to the conduct of the Association or of any director, officer, agent or

employee of the Association without a prior written demand that the defect be cured; without a prior written demand that the defect be cured; that any "no other insurance" clause therein shall not apply with respect to insurance held individually by Owners.

6.7. Quorum Requirements. The quorum required for any action by the Members hereunder, unless otherwise specifically set forth in this Declaration, shall be as follows: At the first meeting called the presence of Members or of proxies entitled to cast fifty percent (50%) of all outstanding votes shall constitute a quorum. If a quorum is not present at the first meeting another meeting may be called by providing written notice setting forth the purpose of the meeting to all Members at least Ten (10) days but not more than Thirty (30) days prior to the meeting date, at which a quorum shall be one-half of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting.

VII. USE RESTRICTIONS

7.1. Use of Common Area. The Common Areas shall be used only in a manner consistent with their community nature and with the use restrictions applicable to Lots and Living Units.

7.2. Use of Lots and Living Units. All Lots are intended to be improved with Living Units and are restricted to such use. Any gainful occupation, profession, trade or other non-residential use conducted on any Lot or Living Unit shall have no noticeable environmental or traffic impact on the community or Subdivision, nor shall any such actions have an impact on the aesthetics of the community or Subdivision, such as, but not limited to, unsightly or large amounts of inventory or products of any type stored in publicly viewable areas of any Lot, any actions that produce large amounts of waste or debris or that produce strong or unpleasant odors, or any actions that result in clutter or other unsightly materials to accumulate in publicly viewable areas of any Lot. Should such an impact become apparent and reported to the Board, the Board may view such actions as a violation of this Section and require the Owner to cease and desist from such activities. If, under these circumstances, an Owner does not cease and desist from such activities or cause such activities to be terminated after receiving written notice from the Board, the Board shall have the right to fine the Owner and if such fines are not properly paid, the Board may then take the actions outlined in Section 5.9 above. Each Living Unit shall be used only as a single-family residence. No Lot or Living Unit shall be used, occupied, or altered in violation of law, so as to jeopardize the support of any other Living Unit, so as to create a nuisance or interfere with the rights of any Owner, or in a way which would result in an increase in the cost of any insurance covering the Common Areas.

7.3. Building Features and Materials.

(a) Building Location. Each building shall be located such that:

i. The building shall be oriented as consented to by the Architectural Control Committee in accordance with the provisions of Article VIII.

ii. No dwelling shall be located nearer than 8 feet to any side yard boundary, 20 feet to any front yard street or 20 feet to any rear yard boundary; provided, however, that the side yard setback for any corner Lot shall be not less than 20 feet. Accessory buildings may not be located within 5 feet of a rear Lot line. No accessory building shall be closer than 5 feet to the side yard lot line of an adjoining Lot. The Architectural Control Committee shall have the right to modify the set back requirements set forth herein for unusual lot characteristics or situations encountered upon a Lot; provided, however, that each such Owner requesting a modification shall be solely responsible in obtaining any necessary consents and/or variances from applicable governmental authorities.

iii. For the purposes of this covenant, eaves, steps and open porches shall not be considered as a part of a building.

(b) Garages. Garages must be fully enclosed, accommodate a minimum of two cars, and be equipped with an automatic garage door opener. Carports are not acceptable substitutes for garages.

(c) Exterior Building Wall Materials. Brick, cast concrete, stucco and wood are permitted for the exteriors of Living Units and accessory buildings; provided that not less than thirty percent (30%) of the area of each exterior wall surface (front, back and side walls) of a Living Unit shall be constructed of brick and/or cast concrete materials. The use of any other materials for such buildings shall require the prior approval of the Architectural Control Committee.

(d) Roof, Soffit and Facia. Roof, soffit and facia material shall be restricted to wood shingles or shakes, slate, tile, thirty year or architectural grade asphalt, fiberglass or other materials approved by the Architectural Control Committee. The use and design of roof, soffit and facia materials is subject to the approval of the Architectural Control Committee. Facia and soffit colors shall be restricted to white, off white, or tan as approved by the Architectural Control Committee.

(e) Accessory Structures. Patio structures, sunshades, and any other appurtenant buildings, such as storage sheds or additional garages, shall be constructed of materials consistent with the colors, textures and materials approved for the dwelling and shall be integral to the architecture of the house and subject to the approval of the Architectural Control Committee.

(f) Chimneys. Chimneys of approved exterior materials may not exceed the height required by appropriate governmental agencies. Exposed metal flues are not acceptable; all chimneys shall be covered with a hood to hide the flue system.

(g) Fences and Walls. Subject to the exceptions set forth below and except as to fences installed by the original Declarant, and fences approved by the Committee and already installed by an Owner or Owners, fencing may be installed by each Owner on rear and side yards and shall not exceed six (6) feet in height and shall be constructed of

an open, dark-colored wrought iron or other open , dark-colored metal in accordance with the fence detail requirements set forth in Exhibit "B" attached hereto and incorporated herein by reference. Parameter fencing around Forest Creek Subdivision, however, may be of solid masonry construction or other such materials as the Committee may approve on a permanent or temporary basis. Fences along the river shall be restricted to open dark-colored metal or wrought iron or such other materials as the Committee may approve on a permanent or temporary basis.

Fences shall not extend past the front of any Living Unit. Six (6) foot high corner lot enclosures (corner fences) shall be permitted on corner Lots on one side yard only and can be located within the front yard set back, but shall not be closer than 20 feet to the front yard street. Corner lot enclosures shall be constructed and maintained in the same manner as other fencing mentioned above.

Before an Owner installs a fence, the Owner shall submit the fencing plans and fence specifications to the Committee. The Owner shall not install such fencing until the plans are approved by the Committee. The Committee shall approve fencing plans that, in its determination, comply with the requirements of this Declaration, comply with local ordinances and laws, and are esthetically pleasing and enhance the image of the Development.

All fences on a Lot shall be maintained by Owners in the condition originally installed and cannot be altered without the approval of the Committee. Fences shall be maintained by the Owners in accordance with Section 7.10.

(h) Paving. Driveway and other flat paved areas may be concrete, exposed aggregate concrete, stamped concrete, quarry tile, brick or paving blocks. Gravel and asphalt areas are not permitted.

(i) Solar Equipment. Solar panels are to be integrated into roof design. Panels and frames must be copper or compatible with roof colors and all equipment must be screened from view.

(j) Antennas. All antennas are restricted to the attic or interior of the residence. It is mandatory that all homes be pre-wired for cable reception. Satellite dish antennas shall be allowed provided they are screened from view and their location is approved by the Architectural Control Committee. Satellite dish antennas shall not be permitted on roofs.

(k) Skylights. Skylights are to be designed as an integral part of the roof. Skylight glazing may not be reflective. Skylight framing shall be colored to match adjacent roofing materials.

(l) Pools, Spas, Water Features, Game courts. Pools, spas, water features and game courts shall be approved by the Architectural Control Committee and shall be located to avoid impacting adjacent properties with light or sound. No game court shall be located in front or side yards. Pool heaters and pumps must be screened from view and

sound insulated from neighboring houses. Nothing herein shall be construed as permitting the construction of skateboard areas and/or ramps, which structures shall be prohibited.

(m) Sheet Metal, Flashing and Vents. All sheet metal, flashing, vents and pipes must be colored to match the material to which they are attached or from which they project, with the exception of copper.

(n) Mechanical Equipment. All air conditioning, heating equipment, swamp coolers and soft water tanks must be screened from view and insulated for sound attenuation. Air conditioning units and swamp coolers are not permitted on roofs or through windows unless screened from view and approved by the Architectural Control Committee.

(o) Gas and Electric Meters. Meter locations are to be designed into the architecture of the dwelling and screened from view.

(p) Landscape Site Preparation Guidelines. All demolition, clearing, grubbing, stripping of soil, excavation, compaction and grading must be performed within the confines of a Lot.

(q) Site Grading and Drainage. Salt Lake County requires that each Lot Owner retain on his own Lot, water runoff in accordance with the approved Forest Creek Subdivision Grading and Drainage Plan submitted by the Declarant in connection with its application for subdivision approval. CAUTION: Developer and its Engineers strongly suggest that no basements be constructed as part of any dwelling within the Subdivision. In the event that any Owner constructs a basement as part of a dwelling unit, such Owner shall be solely responsible for any and all drainage requirements necessitated by such construction or any damage or loss occasioned thereby.

(r) County and Other Approval. Approval of any improvements by the Architectural Control Committee does not waive the requirement for any other required public agency review or permit approval process. By approving plans, the Architectural Control Committee takes no responsibility for plan conformity to any other criteria other than the requirements of this Declaration and any Architectural Guidelines.

(s) Metal Awnings. Metal awnings, metal "lean-tos", or metal patio covers shall not be permitted on any Lot.

(t) Size and Height of Living Unit. Each Living Unit shall have a "foot print" of not less than: (i) 1500 square feet for two level structures with a total minimum square footage of 2800 square feet; or (ii) 2200 square feet for single level structures. The "foot print" requirements as set forth herein shall be exclusive of the square footage contained within garages. Each Living Unit shall not exceed the maximum height permitted by applicable building codes.

7.4. Landscaping and Common Area Improvements.

(a) Except for the construction of a Living Unit which is approved in accordance with the procedures set forth in Article VIII, each Owner shall be restricted from removing or modifying trees (4 inches in caliper or larger) which are located upon and naturally grow upon such Owner's Lot, unless the same shall be dead or dying. Each such Owner shall be responsible at his own cost and expense to maintain and water all such trees.

7.5. Recreational Vehicles. No boats, trailers, large trucks and commercial vehicles belonging to Owners or other Occupants of the Property shall be parked within the Development, except temporary parking not to exceed forty-eight (48) hours. No motor vehicle of any kind shall be repaired, constructed or reconstructed upon any Lot, Private Streets or other Common Areas, except that these restrictions shall not apply to emergency repairs to vehicles. Any motor or recreational vehicle must be kept in an enclosed garage.

7.6. Pets. No animals other than household pets shall be kept or allowed on any Lot, in any Living Unit or within any part of the Common Areas. Whenever a pet is allowed to leave a Lot, it shall be kept on a leash or in a cage. No animals may be bred for commercial purposes on any Lot. No pets shall be allowed to make an unreasonable amount of noise or otherwise become a nuisance. The exterior structure for the care, housing or confinement of any such pets shall be maintained by Owner and approved by the Architectural Control Committee. Any Owner or other resident within the Development who violates this Section shall be subject to such penalties or fines as the Board by resolution or as regulation may provide.

7.7. Common Areas. The Common Areas of the Development shall be improved and used only for the following purposes:

(a) Vehicular and pedestrian access to and from and movement within the Development, and space for temporary vehicular parking.

(b) Recreational use by Owners and Occupants of Living Units and their guests.

(c) Beautification of the Development.

(d) Privacy for the Owners and Occupants of Living Units.

(e) Such other uses as shall be determined from time to time by the Board for the benefit of members of the Association, following consultation with the Architectural Control Committee.

7.8. Insurance. No use shall be made of any Living Unit which shall cause the improvements within the Development or any part thereof to be uninsurable against loss by fire or other perils included in insurance contracts, or cause such insurance to be cancelled or suspended, or cause any company issuing such insurance to refuse renewal thereof. Each Owner shall be responsible for securing insurance presently known as homeowners special form coverage (Form 3, or better). An Owner may be required to obtain flood insurance as a condition to obtaining any financing covering any improvements upon a Lot.

7.9. Machinery and Equipment. No machinery or equipment of any kind shall be placed, used, operated or maintained in or adjacent to any Lot except such machinery or equipment as is usual and customary in connection with the use, maintenance or construction of a Living Unit or appurtenant structures.

7.10. Maintenance and Repair. No Living Unit, building, structure (including interiors thereof), or landscaping upon any Lot shall be permitted to fall into disrepair and, subject to the requirements herein as to approval by the Architectural Control Committee, each such building, structure, or landscaping at all times shall be kept in good condition and as appropriate, adequately painted or otherwise finished by its Owner. Such obligation shall extend, but shall not be limited to, the painting, repair, replacement and care of roofs, gutters, downspouts, and exterior building surfaces.

7.11. Nuisances. No rubbish or debris of any kind shall be placed or permitted by an Owner upon or adjacent to any Lots, so as to render such Lot or portion thereof unsanitary, unsightly, offensive, or detrimental to other Owners. No Living Unit or Lot shall be used in such manner as to obstruct or interfere with the enjoyment of Occupants of other Living Units or Lots. Without any of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices (except security devices used exclusively for security purposes) shall be located or placed on Lots or in Living Units.

7.12. Right of Entry. During reasonable hours, any member of the Architectural Control Committee or any member of the Board, or any officer or authorized representative of any of them, shall have the right to enter upon and inspect any Lot, and the improvements thereof, to ascertain whether or not the provisions of this Declaration and the rules and regulations of the Board or of the Association have been or are being complied with.

7.13. Signs. No signs whatsoever (including, without limitation, political signs) shall be erected or maintained on any Lot, except:

(a) Such signs as may be required by legal proceedings.

(b) Construction identification signs, placed and maintained only during construction of a Living Unit, not exceeding four feet wide and four feet high, for each Living Unit.

(c) A "For Sale" or "For Rent" sign, to the extent permitted by the Board.

7.14. Trash Containers and Collection. All garbage and trash shall be placed and kept in covered containers of a type and style which shall be approved by the Architectural Control Committee. Insofar as possible, such containers shall be maintained as not to be visible from neighboring Lots except to make them available for collection and then only for the shortest time necessary to effect such collection.

7.15. Subdividing. No Lot shall be further divided, subdivided, or merged into another Lot, nor may any easements or other interests therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Association pursuant to Section 10.2.

Any such dividing, subdividing or merging of Lots shall be deemed an amendment to the Declaration.

7.16. Enforcement of Land Use Restrictions. The following persons shall have the right to exercise or seek any remedy at law or in equity to enforce strict compliance with this Declaration:

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

The prevailing party in an action for the enforcement of any provisions of this Declaration shall be entitled to collect court costs and reasonable attorney's fees.

VIII. ARCHITECTURAL CONTROL

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

8.2. Submission to Committee. No Living Unit, accessory building or structure or addition to a Living Unit and no original landscaping or landscape additions and changes or installation or change to a fence or a lighting system shall be constructed or maintained, and no alteration, repainting, or refurbishing of the exterior of any Living Unit, nor of any court enclosure, except as herein otherwise mentioned, shall be performed, unless complete plans and specifications therefore have first been submitted to and approved by the Committee. All such plans and specifications shall be consistent with Architectural Guidelines which shall be from time to time adopted by the Board.

8.3. Standard. In deciding whether to approve or disapprove plans and specifications submitted to it, the Committee shall use its best judgment to insure that all improvements, construction, landscaping, fencing and lighting and alterations to such on Lots within the Property conform to and harmonize with existing surroundings and structures and that such proposed improvements enhance the value and aesthetics of the Property.

8.4. Approval Procedure. Any plans and specifications submitted to the Committee shall be submitted on a form provided by the Committee and in duplicate. A preliminary review of design drawings will be required with a final review to be made of working drawings. Upon completion of each review, one set of plans will be retained by the Association and the remaining set of plans will be returned to the property owner.

The following architectural review fees (made payable to the Association) are required with the submittal of plans and specifications: \$300.00 for architectural, landscaping, fencing and lighting, drawings.

All plans and specifications shall be approved or disapproved by it in writing within twenty (20) days after submission. In the event the Committee fails to take any action within such period it shall be deemed to have approved the material submitted. Committee approvals not acted upon within one year of the approval date are deemed to be void and must be resubmitted for approval.

8.5. Bond/Security Deposit. The Committee will require that an Owner post a bond, cash security deposit or irrevocable letter of credit in a form satisfactory to the Committee, in an amount not to exceed \$1,000.00, in favor of the Association, as a condition to approving any proposed work or improvement. No person shall commence any work or improvement until any and all such bonds, security deposits and letters of credit have been properly posted with the Committee.

The deposit is intended to assure the proper clean-up of dirt and debris and the repair of any damage to the landscaping, streets or other property within the Subdivision, caused by Owner or his agents in the construction of improvements.

8.6 Liability for Damages. The Committee shall not be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this Article VIII.

8.7 Additional Requirements to be Enforced by Committee. The Committee may also enforce the following requirements and shall have the ability to recommend to the Board the assessment of fines against violations of such requirements as set forth in Section 6.4, above:

(a) Any Owner who builds a new Living Unit within the Subdivision shall be required to landscape the remainder of said Owner's Lot within one (1) year after completion of the Living Unit.

(b) Any Owner who purchases a Lot within the Subdivision shall be required to submit plans to the Committee for the construction of a Living Unit on said Lot within one (1) year following the purchase of said Lot. Upon receiving approval from the Committee such Owner shall be required to commence construction of the approved Living Unit within one (1) year of approval from the Committee and shall endeavor to complete construction of the Living Unit as quickly as reasonably possible. If an Owner purchases a Lot adjacent to a Lot where the Owner has already built a Living Unit and such Owner does not intend to build on the adjacent Lot, then the adjacent Lot must be landscaped but the Owner shall not be required to comply with the construction requirements of section 8.8(a).

(c) Any Owner who has not built a Living Unit on said Lot shall be required to commence construction of a Living Unit on said Lot or landscape said Lot to the approval of the Committee within one (1) year following the adoption of this Declaration. If such an Owner has not commenced construction on a Living Unit nor landscaped said Lot within the allotted time, the Committee shall have the right to assess an appropriate fine, as discussed in Section 6.4, above, or to commission the landscaping of the Lot and assess the Owner with the costs.

IX. RIGHTS OF FIRST MORTGAGEE

Notwithstanding anything to the contrary contained herein, the following provisions shall apply:

9.1. Notices of Action. The institutional holder, insurer, or guarantor of a first mortgage of any first mortgage lien or equivalent security interest on a Lot, who provides a written request to the Association (such request shall state the name and address of such institutional holder, insurer, or guarantor of a first mortgage lien holder and the Lot number, therefore becoming an "eligible holder") will be entitled to timely written notice of: (a) any condemnation loss or any casualty loss which affects a material portion of the Subdivision or affects a Lot on which there is a first lien mortgage held by such eligible holder; (b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot on which there is a first lien mortgage held, by such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first mortgage, upon request, is entitled to written notice from the Association of any default in the performance by the Owner of the encumbered Lot of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days; and (c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

9.2. Abandonment, Termination, Etc. Owners of encumbered Lots will not abandon or terminate the Subdivision; abandon, partition, subdivide, encumber, sell, hypothecate, transfer or otherwise encumber all or any part of the Common Areas except for the creating of easements and similar purposes consistent with the intended use of the Common Areas; or

(d) Use hazard insurance proceeds resulting from damage to any part of the development for any purposes other than the repair, replacement, or reconstruction of such improvements.

9.3. Notice of Substantial Damage or Destruction. The Association shall notify all eligible holders of any first mortgage lien or equivalent security interest on a Lot in writing in the event that there occurs any substantial damage to or destruction of any Living Unit or any part of the Common Areas involving an amount in excess of, or reasonably estimated to be in excess of \$25,000. Said notice shall be given within ten (10) days after the Association learns of such damage or destruction.

9.4. Condemnation or Eminent Domain Proceedings. The Association shall give written notice to all eligible holders of any condemnation proceedings or proposed acquisition of a Living Unit or of any portion of the Common Areas within ten (10) days after the Association learns of the same.

9.5. Hazard Policy to Include Standard Mortgagee Clause. Each hazard policy of the insurance shall include the standard mortgagee clause which either shall be endorsed to provide that any proceeds shall be paid to the Association for the use and benefit of mortgagees as their interests may appear, or shall be otherwise endorsed to fully protect the interest of mortgagees. In addition, the mortgagee clause shall provide that the insurance carrier shall notify each mortgagee at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy.

9.6. Rights Upon Foreclosure of Mortgage. The lien of the assessments provided in Section I, Article V shall be subordinate to the lien of any first mortgage upon such Lot; and the holder of a first mortgage (or deed of trust) on a Lot who comes into possession of the Lot by virtue of foreclosure of such first mortgage, or in lieu of foreclosure obtains possession by deed or assignment, or any purchaser at a foreclosure sale, will take the Lot free of any claims for unpaid assessments and charges against the Lot which accrue prior to the time such holder comes into possession of the Lot, except for claims for a share of such assessments or charges resulting from a reallocation of such assessments or charges to all Lots including the mortgage Lot.

9.7. Mortgagees' Rights to Inspect Association Records. The holders of first mortgages shall have the right upon reasonable notice and during business hours to inspect and copy at their own expense all books and financial records of the Association.

X. MISCELLANEOUS

10.1. Notices. Any notice required or permitted to be given to any Owner or Member under the provisions of this Declaration shall be deemed to have been properly furnished if mailed, postage prepaid, or delivered by electronic means such as email, to the person who appears as a Member or Owner, at the latest mailing or email address for such person appearing in the records of the Association at the time of mailing.

10.2. Amendment. Any amendment to this Declaration shall require the affirmative vote of at least two-thirds (2/3) of all membership votes, which Members present in person or represent by proxy are entitled to cast at a meeting duly called for such purpose. Written notice setting forth the purpose of the meeting and the substance of the amendment proposed shall be sent to all Members at least ten (10) but not more than thirty (30) days prior to the meeting date. The quorum required for any such meeting shall be the presence of Members or of proxies entitled to cast fifty percent (50%) of all votes of the Membership and as otherwise set forth in Section 6.7 above. Any amendment authorized pursuant to this Section shall be accomplished through the recordation of an instrument executed by the President or Vice President of the Association. In such instrument the President or Vice President of the association shall certify that the vote required by this Section for amendment has occurred.

10.3. Consent in Lieu of Voting. In any case in which this Declaration requires for authorization or approval of a transaction the assent or affirmative vote of a stated percentage of the votes present or represented at a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Members entitled to cast at least the stated percentage of all membership votes outstanding in connection with the membership considered. The following additional provisions shall govern any application of this Section 10.3:

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

(b) The total number of votes required for authorization or approval under this Section 10.3 shall be determined as of the date on which the last consent is signed.

(c) Except as provided in the following sentence, any change in ownership of a Lot which occurs after consent has been obtained from the Owner thereof shall not be considered or taken into account for any purpose. A change in ownership which would otherwise result in an increase in the total number of Membership votes outstanding shall, however, be effective in that regard and shall entitle the new Owner to give or withhold his consent.

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

10.4. Lease Provision. Any Owner may lease his Lot and the Living Unit as are situated thereon; provided, however, that the Owner deposit a \$2,000 security deposit with the Association. The deposit is to ensure that any damage or clean up expenses associated with the lease will be paid by the Owner (Lessor). Any lease agreement between a Lot Owner and a Lessee must be in writing, a copy must be delivered to the Association, and must provide, inter alia, that:

(a) The terms of the lease shall specifically provide that the lease and the Tenant is in all respects subject to the provisions of the Declaration, Articles of Incorporation of the Association, the By-Laws, and any rules and regulations adopted by the Board;

(b) Any failure by the Lessee to comply with the terms of such documents shall constitute a default under the lease;

(c) The Lessee's right to use Common Area amenities may be revoked by the Board, if the Board, in its sole determination, concludes that Lessee's or Lessee's guests' use of the Common Area amenities is disruptive to the quiet enjoyment of said amenities by the Owners.

10.5. Dissolution. The Association may be dissolved by the affirmative assent in writing of two-thirds (2/3) of the votes of the Members. Upon dissolution of the Association, all of its assets (including the Common Areas) may be dedicated or transferred to an appropriate public agency or authority to be used for purposes similar to those provided for in the By-laws, the Articles of Incorporation or this Declaration. In the event such dedication or transfer is not made or is not accepted, the Association's assets shall be transferred to a non profit corporation, trust, or other entity to be used for such similar purposes, and each Owner shall continue to be obligated to make assessment payments for the maintenance and upkeep of the Common Areas, common access roadways, curbs, gutters and sidewalks on a pro rata basis which conforms substantially with the assessment procedure, terms and conditions set forth in Article V of this Declaration.

10.6. Enforcement by County. If the Association fails to maintain the Common Areas, the common access roadways, along with the curbs, gutters and sidewalk, in good order and condition, Salt Lake County shall have the right, but not the obligation, upon giving the Association thirty (30) days notice in writing, to step in and do the necessary maintenance and management with the same right to lien the Lots and collect the costs thereof against the Owners as the Association has under this Declaration shall not affect the validity or enforceability of the remainder hereof.

10.7. Interpretation. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any party thereof, and any gender shall include the other gender. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.

10.8. Property Part of Development. The Property shall comprise the Forest Creek Planned Unit Development.

10.9. Covenants to Run With Land. This Declaration and all provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of the parties who hereafter acquire any interest in a Lot or in the Common Areas shall be subject to the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration; and failure to comply with any of the foregoing shall be grounds for an action by the Association or an aggrieved Owner for the recovery of damages, or for injunctive relief, or both. By acquiring any interest in a Lot or in the Common Areas, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

10.10. Effective Date. This Declaration and any amendment hereof shall take effect upon its being filed for record in the office of the County Recorder of Salt Lake County, Utah.

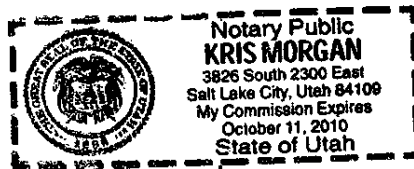
10.11. Member Approval. By his signature below, the President of the Association certifies that the vote required by Section 10.2 above, to amend the Amended and Restated Declaration has occurred.

EXECUTED the day and year first written above.

FOREST CREEK HOME OWNERS
ASSOCIATION, a Utah non-profit corporation


By: Mark Zupon
Its: President

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



The foregoing instrument was acknowledged before me the 22nd day of March, 2010, by Mark Zupon as President of Forest Creek Home Owners Association, a Utah non-profit corporation.

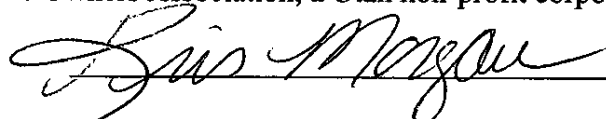

Notary Public

EXHIBIT A

BEGINNING at a point which is East 588.965 feet and North 1505.447 feet from the Southwest corner of Section 17, Township 2 South, Range 1 East, Salt Lake Base and Meridian, and running thence North $0^{\circ}49'07''$ West along the Easterly line of Erekson Village Subdivision as recorded with the office of the Salt Lake County Recorder and line extended 45.58 feet; thence Northerly along said East line of said Erekson Village Subdivision and the Easterly and Northerly lines of Longfellow Park Subdivision as recorded with the office of the Salt Lake County Recorder and line extended the following five (5) courses: North $1^{\circ}09'40''$ East 498.47 feet; thence North $0^{\circ}00'55''$ East 238.00 feet; thence North $1^{\circ}51'24''$ West 40.02 feet; thence North $70^{\circ}42'07''$ West 38.07 feet; thence North $70^{\circ}33'51''$ West 74.63 feet to a fence; thence North $34^{\circ}45'$ East 250.89 feet along said fence; thence North $2^{\circ}35'$ East 77.97 feet along said fence to the North line of the Southwest Quarter of said Section 17; thence South $89^{\circ}56'24''$ East along said North line 36.69 feet to a point in the center of Vine Street; thence Southeasterly along the center of said Vine Street the following three (3) courses: South $43^{\circ}20'52''$ East 130.26 feet to a Salt Lake County Brass Cap Monument; thence South $51^{\circ}29'11''$ East 471.87 feet to a former Salt Lake County Brass Cap Monument (not found); thence South $38^{\circ}44'41''$ East 169.55 feet; thence South $43^{\circ}46'34''$ West 126.30 feet; thence South $3^{\circ}30'34''$ West 94.00 feet; thence South $85^{\circ}10'26''$ East 70.00 feet; thence South $32^{\circ}12'26''$ East 88.53 feet; thence North $87^{\circ}13'34''$ East 141.84 feet; thence South $38^{\circ}44'41''$ East 24.53 feet; thence South $89^{\circ}33'40''$ East 22.67 feet; thence South $0^{\circ}09'16''$ West 495.24 feet; thence South $69^{\circ}32'10''$ East 173.22 feet to a point on the North line of 5900 South Street; thence Southwesterly along the North line of said 5900 South Street along the arc of a 994.93 foot radius curve to the left (center bears South $3^{\circ}54'10''$ East) through a central angle of $10^{\circ}16'50''$ a distance of 178.52 feet to a point of tangency; thence South $75^{\circ}49'$ West 109.03 feet; thence North 85.93 feet to the Northeast corner of Lot 1, A. Johnson Subdivision as recorded with the office of the Salt Lake County Recorder; thence North $55^{\circ}00'$ West along the North line of Lot 1 of said A. Johnson Subdivision and line extended 425.79 feet; thence North $79^{\circ}00'$ West along the North line of Homestead Court Subdivision as recorded with the office of the Salt Lake County Recorder and line extended 194.23 feet; thence South $62^{\circ}24'30''$ West along said North line of Homestead Court Subdivision 217.79 feet to a point of BEGINNING.

A Fence to Fit Every Need

There are ten standard Jerrish fence styles available in three colors and five heights. This variety assures that there will be a combination to enhance the beauty of your home, pool or yard.

#101 - This traditional wrought iron design has its points even across the top.

#100 - Modification of Style #101 with staggered picket tops for something a little more distinct.

#111 - This version of Style #101 is built to accept Imperial or Majestic finials on the pickets instead of the standard spear points. (See Page 7 for information about finials.)

#301 - Similar to Style #101 but with a $1\frac{1}{2}$ " space between pickets. This fence will keep most pets in your yard. The narrow spacing also makes it difficult for children to obtain a foothold on the fence.

#202 - A classic design with a smooth rail on top rather than points. Also available in a 54" height which is modified slightly so the pickets do not extend through the bottom rail to meet certain pool codes without installing a 5" high fence.

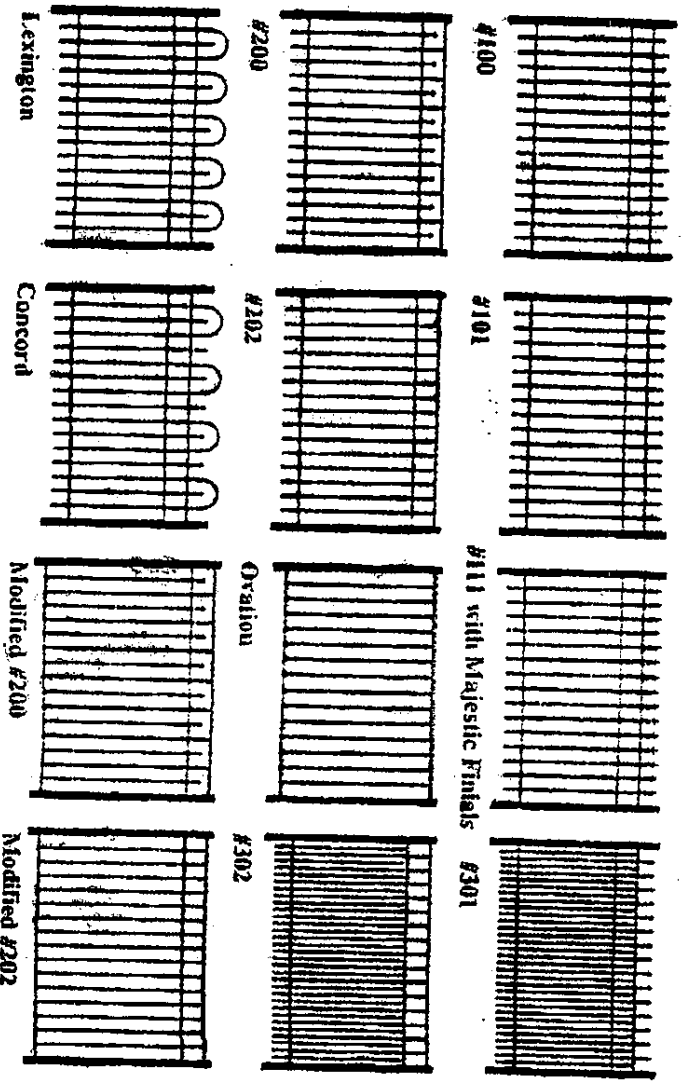
#200 - Variation of Style #202 which combines the safety of a top rail with traditional spear points below. A modified 54" version is available in this style too.

#302 - Smooth top version of #301 for those who do not want exposed points on their fence, but want the added security of a narrow space between pickets. Lexington - This distinguished wrought iron design has elegant curves connecting the pickets. Available with standard points or finials centered in the arch.

Concord - Similar to the Lexington, but with pickets between each arch, as well as inside. Pickets may have either standard points or finials.

Ovation - This two rail fence has a simple design that was specifically created to meet the swimming pool enclosure code drafted by the U.S. Consumer Product Safety Commission. (See Page 10 for more information about pool codes.)

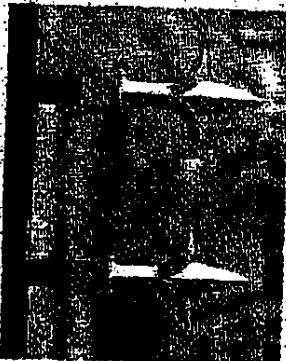
EXHIBIT B



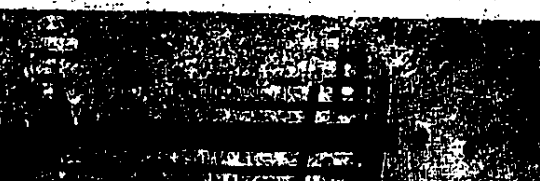
Note: All standard styles except Lexington, Concord and Ovation are also available in Industrial Strength.



Majestic Finials



Majestic Finials



Style #202



Style #111 with Majestic Finials