

After recordation, return to:

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Fillmore Spencer LLC
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Provo, Utah 84604

**DECLARATION OF EASEMENTS, COVENANTS,
CONDITIONS AND RESTRICTIONS
(Including Owner Association Bylaws)**

Autumn Hills

Salem City, Utah County, Utah

THIS DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS (the "**Declaration**") is made this 30th day of January, 2006, by, **G & J Construction, Inc.**, a Utah corporation ("**Declarant**"), in its capacity as the owner and developer of Autumn Hills, an expandable subdivision in Salem City, Utah County, Utah.

ARTICLE I

PURPOSE AND EFFECTUATION

1.01 **Purpose.** The purpose of this instrument is to provide for the preservation of the values of Lots and residential Units within the subdivision known as Autumn Hills in Salem City, Utah County, Utah (the "**Development**") and to provide for integrity of architectural design for Units and Lots.

1.02 **Effectiveness.** From and after the effective date hereof: (a) each part of the Development and each Lot and Unit lying within the boundaries of the Development shall constitute constituent parts of a single subdivision; (b) the Development shall consist of the Lots, together with such additional Lots as may come into existence pursuant to the provisions hereof relating to annexation or expansion of the Development; (c) the Declaration for the Development shall consist of this document as the same may be modified, amended, supplemented, or expanded in accordance with the provisions hereof; and (d) the initial Plat of the Development shall consist of the instrument which is identified as **Plat "C" of Autumn Hills, a Residential Subdivision, Salem, Utah County, Utah**, recorded concurrently with this Declaration in the Public Records, as the same may be thereafter amended, and any subsequent plats which may be filed for record pursuant to the provisions hereof relating to annexation or expansion of the Development.

ARTICLE II

DEFINITIONS

When used throughout this Declaration each of the following terms shall have the meaning indicated:

Additional Land shall, at any point in time, mean all of the land in Salem City, Utah County, Utah, set forth and described in Exhibit A, attached hereto and made a part hereof.

Articles shall mean and refer to the Articles of Incorporation of the Association, which may or may not be filed with the Division of Corporations and Commercial Code of the State of Utah, as they are amended from time to time.

Association shall mean the Autumn Hills Property Owners' Association, which may or may not be incorporated, its successors and assigns. Each Owner shall hold an appurtenant membership interest in the Association, as set forth in the Bylaws.

Board shall mean the Board of Directors of the Association.

Bylaws shall mean and refer to the Bylaws of the Association as set forth and embodied in this Declaration in ARTICLES XI, XII and XIII.

DRC shall mean and refer to the Design Review Committee referred to in ARTICLE VII.

Declarant shall mean G & J Construction, Inc., a Utah corporation, its successors and assigns, if any, as developer of the Development.

Declaration shall mean this Declaration of Easements, Covenants, Conditions and Restrictions for Autumn Hills, an expandable subdivision in Salem City, Utah County, Utah, as the same may be supplemented or amended from time to time. **Supplemental Declaration** shall mean and refer to an instrument which supplements the Declaration and which is recorded in the Public Records concurrently with a Plat for a subsequent phase of the Development pursuant to the annexation provisions of ARTICLE III of this Declaration.

Development shall mean the subdivision known as Autumn Hills in Salem City, Utah County, Utah, as it exists at any given time.

Lot shall mean and refer to any of the separately numbered and individually described parcels of land within the Development, as designated on a Plat and intended for single family residential use.

Managing Agent shall mean any person or entity appointed or engaged as Managing Agent of the Development by the Association.

Mortgage shall mean any recorded first mortgage or first deed of trust encumbering a Lot; and **Mortgagee** shall mean any mortgagee or beneficiary named in a Mortgage.

Owner shall mean any person who is the owner of record (as reflected in the Public Records) of a fee or undivided fee interest in any Lot, and any contract purchaser of any Lot. Notwithstanding any applicable theory relating to mortgages, no Mortgagee nor any trustee or beneficiary of a deed of trust or trust deed shall be an Owner unless such party acquires fee title pursuant to foreclosure or sale or conveyance in lieu thereof. Declarant shall be an Owner with respect to each Lot owned by it. Multiple Owners of a particular Lot shall be jointly and severally liable as to all responsibilities and obligations of an Owner.

Plat shall mean and refer to the recorded plats for the Development. The initial Plat is entitled **Plat "C" of Autumn Hills, a Residential Subdivision, Salem, Utah County, Utah**, prepared and certified by Dennis P. Carlisle (a registered Utah land surveyor holding Certificate No. 172675), executed and acknowledged by Declarant, accepted by the Salem City, and recorded in the Public Records concurrently with this Declaration. Such term shall also include any subdivision plat or plats pertaining to all or any portion of the Additional Land, as and when the same is annexed and added to the Development pursuant to the annexation provisions of ARTICLE III of this Declaration.

Property shall mean all land covered by this Declaration, including Lots and other land annexed to the Development as provided in this Declaration. The initial Property shall consist of the land described in Section 3.01 of ARTICLE III hereof.

Public Records shall mean the Office of the Utah County Recorder in Provo, Utah.

Rules and Regulations shall mean and refer to those Rules and Regulations authorized, adopted, and promulgated to the Owners from time to time by the Board pursuant to the provisions of Section 8.03.

Unit shall mean a structure which is designed, constructed and intended for use or occupancy as a single family residence on a Lot, together with all improvements located on the same Lot and used in conjunction with such residence, including anything located within or without said Unit (but designated and designed to serve only that Unit) such as a detached garage, patios, fences, decks, appliances, electrical receptacles and outlets, air conditioning compressors and other air conditioning apparatus, if any.

ARTICLE III

PROPERTY DESCRIPTION AND ANNEXATION

3.01 **Submission.** The Property which initially is and shall be held, transferred, sold, conveyed, and occupied, subject to the provisions of this Declaration, consists of the following described real property in Utah County, State of Utah:

A portion of the SE1/4 of Section 12, and the NE1/4 of Section 13, Township 9 South, Range 2 East, Salt Lake Base & Meridian, located in Salem, Utah, more particularly described as follows:

Beginning at a point located S89°25'00"W along the Section line 687.49 feet and N0°18'54"W 491.21 feet from the Southeast Corner of Section 12, T9S, R2E, S.L.B.& M.; thence West 597.80 feet; thence S0°21'16"E 119.65 feet; thence along the arc of a 15.00 foot radius curve to the left 23.47 feet through a central angle of 89°38'44" (chord: S45°10'38"E 21.15 feet); thence S0°30'57"E 66.00 feet; thence Southwesterly along the arc of a 15.00 foot radius non-tangent curve (radius bears: South) 23.65 feet through a central angle of 90°21'16" (chord: S44°49'22"W 21.28 feet); thence S0°21'16"E 50.47 feet; thence along the arc of a 533.00 foot radius curve to the right 85.09 feet through a central angle of 9°08'50" (chord: S4°13'09"W 85.00 feet) to a point of reverse curvature; thence along the arc of a 967.00 foot radius curve to the left 103.27 feet through a central angle of 6°07'08" (chord: S5°44'00"W 103.22 feet) to a point of compound curvature; thence along the arc of a 15.00 foot radius curve to the left 24.37 feet through a central angle of 93°04'26" (chord: S43°51'47"E 21.77 feet); thence S0°24'00"E 30.17 feet; thence S89°36'00"W 26.57 feet; thence N0°16'30"E 2.06 feet; thence S89°25'00"W 8.12 feet; thence S0°22'04"E 2.03 feet; thence S89°36'00"W 55.47 feet; thence N0°24'00"W 14.88 feet; thence Northeasterly along the arc of a 30.00 foot radius non-tangent curve (radius bears: N0°24'00"W) 45.66 feet through a central angle of 87°12'29" (chord: N45°59'46"E 41.38 feet) to a point of reverse curvature; thence along the arc of a 1,012.00 foot radius curve to the right 113.05 feet through a central angle of 6°24'02" (chord: N5°35'32"E 112.99 feet) to a point of reverse curvature; thence along the arc of a 488.00 foot radius curve to the left 33.71 feet through a central angle of 3°57'29" (chord: N6°48'49"E 33.71 feet); thence N0°21'16"W 754.36 feet; thence Northeasterly along the arc of a 333.00 foot radius non-tangent curve (radius bears: S70°54'23"E) 46.67 feet through a central angle of 8°01'47" (chord: N23°06'30"E 46.63 feet); thence N27°07'24"E 81.97 feet; thence along the arc of a 267.00 foot radius curve to the left 126.90 feet through a central angle of 27°13'52" (chord: N13°30'28"E 125.71 feet); thence N0°06'28"W 99.47 feet; thence along the arc of a 15.00 foot radius curve to the left 23.64 feet through a central angle of 90°16'42" (chord: N45°14'49"W 21.26 feet); thence S89°36'50"W 71.92 feet; thence N0°21'16"W 33.37 feet; thence N89°31'17"E 153.14 feet; thence N0°06'28"W 1.13 feet; thence N89°28'14"E 14.76 feet; thence S0°23'10"E 34.78 feet; thence Southwesterly along the arc of a 15.00 foot radius non-tangent curve (radius bears: S0°23'10"E) 23.49 feet through a central angle of 89°43'18" (chord: S44°45'11"W 21.16 feet); thence S0°06'28"E 99.94 feet; thence along the arc of a 333.00 foot radius curve to the right 11.71 feet through a central angle of 2°00'54" (chord: S0°53'59"W 11.71 feet); thence East 493.01 feet; thence S0°18'54"E 670.30 feet to the point of beginning.

Contains: 10.57+/- acres

TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described parcel of real property, whether or not the same are reflected on a Plat.

RESERVING UNTO DECLARANT, however, such easements and rights of ingress and egress over, across, through, and under the said property and any improvements (including buildings) now or hereafter constructed thereon as may be reasonably necessary for Declarant (in a manner which is reasonable and not inconsistent with the provisions of this Declaration): (i) to construct and complete each and all of the improvements described in this Declaration or in a Plat, and to do all things reasonably necessary or proper in connection therewith; (ii) to construct and complete on the Additional Land, or any portion thereof, such improvements as Declarant shall determine

to build in its sole discretion (and whether or not the Additional Land or any portion thereof has been or hereafter will be added to the Development); and (iii) to improve portions of the said property with such other or additional improvements, facilities, or landscaping designed for the use and enjoyment of all the Owners as Declarant may reasonably determine to be appropriate. With the exception of such perpetual easements, the reservations hereby effected shall, unless sooner terminated in accordance with their terms, expire ten (10) years after the date on which this Declaration is recorded in the Public Records.

ALL OF THE FOREGOING IS SUBJECT TO all liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all Patent reservations and exclusions; all mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described real property or any portion thereof, including, without limitation, any mortgage (and nothing in this paragraph shall be deemed to modify or amend such mortgage); all visible easements and rights-of-way; all easements and rights-of-way, encroachments, or discrepancies shown on, or revealed by, a Plat or otherwise existing; an easement for each and every pipe, line, cable, wire, utility line, or similar facility which traverses or partially occupies the said real property at such time as construction of all Development improvements is complete; and all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, lines, cable, wires, utility lines, and similar facilities; **AND TO EACH OF THE EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS CONTAINED IN THIS DECLARATION.**

3.02 **Division into Lots.** The Development is hereby divided into 19 Lots as set forth and described on the Development's Plat "C".

3.03 **Annexation by Declarant.** Declarant may, from time to time, expand the Development subject to this Declaration by the annexation of all or part of the lands constituting the Additional Land. Subject to compliance with the conditions imposed by the following Section 3.04, the annexation of any such land shall become effective upon the recordation in the Public Records of a Plat of such Additional Land signed by the owner thereof, and of a Supplemental Declaration which (a) is signed by the then owner(s) of such Additional Land, as Declarant; (b) describes the land to be annexed; (c) declares that the annexed land is to be held, transferred, sold, conveyed, and occupied as part of the Development, subject to this Declaration; and (d) sets forth such additional information, limitations, restrictions, easements, covenants and conditions, not inconsistent with those of this Declaration, as may be applicable to the annexed land. When any such annexation becomes effective, the annexed land shall become part of the Property and the Development and subject to the provisions of this Declaration, as amended or supplemented by any amendment or by any Supplemental Declaration.

3.04 **Limitation on Annexation.** Declarant's right to annex land to the Development shall be subject to the following limitations:

(a) The annexed land must be part of the Additional Land set forth and described herein;

(b) Declarant shall not effectuate any annexation of land which would cause the total number of Lots existing in the Development to exceed 40.

(c) The holder of each mortgage, deed of trust or other security device affecting any part of the Additional Land at the time of its annexation into the Development must consent, through appropriate instruments recorded in the Public Records, to the recordation of the Supplemental Declaration and to the Plat to which such Supplemental Declaration relates; and

(d) The Additional Land added to the Development must be subdivided into Lots designed to be used for purposes similar to those contemplated by this Declaration.

3.05 No Obligation to Annex or Develop. Declarant has no obligation hereunder to annex any Additional Land to the Development or to develop or preserve any portion of Additional Land in any particular way or according to any particular time schedule. No land other than the Property, as defined on the date hereof, and land annexed thereto in accordance with the terms of this Article shall be deemed to be subject to this Declaration, whether or not shown on any Plat filed by Declarant or described or referred to in any documents executed or recorded by Declarant, including **Exhibit A** to this Declaration.

3.06 Other Annexation. To the extent that Declarant does not now or in the future may not own all of the Additional Land, the then owners of such Additional Land or parts thereof ("Adjoining Owners") may annex all or any part of the Additional Land to the Development and subject the same to the terms of this Declaration, provided that (a) the same limitations which are imposed on Declarant under Section 3.04 of this ARTICLE III shall be applicable to Adjoining Owners; and (b) Adjoining Owners make the recordation and comply with all the other requirements referred to in Section 3.03 of this ARTICLE III.

ARTICLE IV

DUTIES AND OBLIGATIONS OF OWNERS

4.01 Maintenance and Repairs. Each Owner shall at his own cost maintain his Lot and any improvements constructed thereon in good condition and repair at all times. No burning shall be permitted on any Lot. The Owner of each Lot shall keep the same completely free of weeds, rubbish and litter of any kind at all times and shall maintain the Lot and Unit in a safe, attractive and sightly condition. In the event of the damage or destruction of any Unit, the Owner of the Lot upon which such Unit is situated shall either rebuild the same within a reasonable time or shall raze the remains thereof so as to prevent the unsightly appearance and dangerous condition of a partially destroyed structure in the Development. The painting or repainting, remodeling, rebuilding or modification of any Unit exteriors or parts thereof must be submitted to and approved by the DRC pursuant to its procedures. No Owner of such Units shall openly or wantonly neglect or fail to do all within such Owner's power to help keep such items in good and attractive condition at all times.

4.02 Insurance. Owners of Units shall procure at their expense, and shall maintain in force, hazard insurance on their particular Unit, and contents and personal liability coverage as is customary in projects such as the Development and which is consistent with each Owner's individual circumstances.

4.03 Rules Observance. Each Owner shall be responsible for the observance of the Rules and Regulations promulgated by the Association's Board from time to time. Owners in violation of the provisions of this Section 4.03 will not be deemed to be in good standing for Association voting

purposes.

4.04 Transfer of Interests. Except for obligations already accrued, an Owner who, for other than purposes of security, transfers all of his interests in his Lot to another, either voluntarily or by operation of law, shall be relieved of all obligations under this Declaration following such transfer.

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

Lot ___ as identified in the official Plat ___ of Autumn Hills, a Residential Subdivision, Salem, Utah County, Utah, recorded in the Office of Utah County Recorder as Instrument No. _____ on _____, 2_____, **SUBJECT TO** the Declaration of Easements, Covenants, Conditions and Restrictions of Autumn Hills, recorded in the Office of the Utah County Recorder as Instrument No. _____ (as said Declaration may have heretofore been amended or supplemented).

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.

ARTICLE V

USE RESTRICTIONS

5.01 Residential Use. Each Lot, Unit, and Owner are subject to the uses and restrictions imposed by zoning ordinances of Salem City, including, but not limited to occupancy and parking restrictions. No Lot or Unit shall be used, occupied, or altered in violation of such ordinances. Each and all of the Lots are for single-family ("family" is defined to mean persons related by blood or marriage or by legal adoption) residential purposes only and are not subject to further subdivision or partition by sale. The Lots are to be used, built upon, improved and held in such a way as to preserve and enhance their beauty and maintain them free from unsightly neglect or abuse. No improvement or structure whatever, other than a high quality private dwelling house, swimming pool and customary outbuildings, garage, or carport may be erected, placed, or maintained on any Lot. No Lots shall ever be occupied or used for any commercial or business purpose, provided, however, that nothing in this section shall be deemed to prevent:

- a. Declarant or its duly authorized agent, or successor in interest, from using any Lot owned by Declarant as a sales office, sales model, property management office; or
- b. Any artists, artisan or craftsman from pursuing his artistic calling upon private area if such artist, artisan or craftsman also uses such private area for residential purposes, is self-employed and has no employees working in such private area, and does not advertise or offer any product or work of art for sale to the public upon or from such private area.
- c. Any small business conducted in the home which does not attract clients, business

invitees, or any other persons to the Development for business purposes and is done without employees.

5.02 Prohibited Use and Nuisances. No Lots are to be used, built upon, improved and held in such a way as to create a nuisance or to interfere with the rights of any other Owner. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done or placed on any Lot which is or may cause material embarrassment, disturbance, or annoyance to other Owners. The following uses and practices are specifically prohibited, in addition to any additional prohibitions which may, from time to time, be adopted by the Board pursuant to Section 8.03 of this Declaration:

(a) No Unit or any part thereof shall be used or occupied by any persons not coming within the definition of "family" as such term is defined above.

(b) No lease of any Unit shall be for less than the whole thereof.

(c) Animals, livestock or poultry of any kind shall not be raised, bred or kept on any Lot, except dogs, cats or other household pets, in reasonable numbers, may be kept provided that they are not kept, bred or maintained for any commercial purpose and are restricted to the Owner's premises or on a leash under the handler's control at all times. All animals and their habitation shall be maintained so as not to be a nuisance, in accordance with the Salem City ordinances.

(d) No parking of vehicles of any kind on the streets, private drives or parking areas within the Development shall be permitted except as set forth in Rules and Regulations adopted by the Board pursuant to Section 8.03 of this Declaration.

(e) No outside television or radio aerial or antenna, satellite dish (greater than two feet in diameter), or other similar device for reception or transmission shall be permitted on any Lot or the exterior of any Unit except pursuant to written approval of the DRC pursuant to Rules and Regulations adopted by the Board pursuant to Section 8.03 of this Declaration.

(f) No rooftop, window, or wall mount evaporative coolers will be allowed, unless approved by the DRC.

(g) No activity shall be conducted on any Lot, nor shall any improvements be constructed on any Lot which are, or might be, unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged in the Development.

(h) No light shall be emitted from any Lot which is unreasonably bright or causes unreasonable glare; no sound shall be admitted from any Lot which is unreasonably loud or annoying, including without limitation, speakers, horns, whistles, bells or other sound devices, except security and fire alarm devices used exclusively to protect any Lot or building; and no odor shall be emitted from any Lot which is obnoxious or offensive to others.

(i) No structure of a temporary nature, no trailer, mobile home, tent, shack, garage, barn or other out building shall be used on any Lot at any time as a residence either temporary or

permanent, except a mobile home not to exceed 40 feet and no longer than 10 days.

(j) No billboards or advertising signs of any nature shall be erected, posted, painted or displayed upon, permitted or maintained on any Lot or improvement thereon except as herein expressly permitted. A name and address sign of reasonable size shall be permitted. A sign of not more than three feet square advertising the Lots during the construction and sales period shall be permitted. Nothing herein shall be construed to prevent the Declarant from erecting, placing or maintaining sign structures and offices as may be deemed necessary by him for the operation of the Development and sale of Lots.

(k) No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other refuse. Each Lot shall be kept free of trash, weeds, rubbish and other refuse. Refuse, garbage, rubbish or other waste shall be kept in covered sanitary containers and shall be placed and kept so as not to be visible from any street or adjacent Lot, except during time of refuse collections. No garbage incinerators shall be permitted.

(l) Within a reasonable length of time (one year maximum) after completion of construction of any Unit upon a Lot, the Owner must have substantially completed the landscaping of the residential landscaped area. Such landscaping shall include but shall not be limited to the planting of lawn or other appropriate ground cover, appropriate shrubbery and trees. A garden area may be included as part of the rear landscaping providing that such area is maintained, tilled and kept free of weeds, vines and rubbish.

(m) All driveways, walkways, parking areas and other areas of a similar nature shall be paved with concrete or concrete pavers in accordance with the approved plans and specifications within 30 days of completion of the construction of buildings or improvements erected upon the Lot.

(n) No fence shall be erected or maintained upon any Lot without the written approval of the DRC having been first obtained, and all fences shall be constructed of vinyl or wrought iron. Applications for such approval shall specify the type of fence to be constructed, the materials to be used, the location of the fence on the Lot and such other information as the DRC may require.

(o) No unsightliness shall be permitted within the Development. All motor vehicles stored or parked on the Lots visible from the streets shall be in running condition and properly licensed. No vehicles, boats, or equipment shall be abandoned within the Development. Recreation vehicles including but not limited to trailers, buses, campers, and motor homes, whose size exceeds 7 feet in height or 19 feet in length, a pickup truck with a shell that exceeds the height of the cab, a boat, trailer, motor driven cycle or any similar vehicles, or a detached truck shell or camper shall not be parked or stored in front of any Lot, but may be stored in the rear or a sideyard. Temporary parking of motor homes, camp trailers and 5th wheel trailers will be limited to 10 days.

(p) All heating and air condition or cooling equipment of any nature whatsoever, including solar energy devices, shall, if placed outside the residence, be architecturally concealed from view from neighboring Lots and the streets to the maximum extent practicable. All such equipment shall be placed on the ground and no rooftop mechanical equipment of any kind is

permitted except solar energy devices which may be roof mounted in accordance with design criteria adopted by the DRC as part of the architectural control provisions. However, with respect to solar energy devices, if strict compliance with the design criteria for concealment would prevent the device from being functional or would otherwise effectively prohibit the installation or use of a solar energy device, then concealment shall be only required to the extent reasonably consistent with the installation and use of the device.

(q) A structure, planting or other material shall not be placed or permitted to remain or other activities undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels or obstruct or retard the flow of water through drainage channels. The slope control areas of each Lot and all improvements in them shall be maintained continuously by the Owner of a Lot, except for those improvements for which a public authority or utility company is responsible.

(r) Fences, walls, hedges or shrubbery which obstruct sight lines at elevations between three (3) feet and six (6) feet above the roadways shall not be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines or in case of rounded property, from the intersection of the street property lines extended. The same sight line limitations shall apply on a driveway or alley. Trees shall not be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

(s) Where circumstances, such as topography, hardship, location of property lines, location of streams or other matters require, the DRC may allow reasonable variances as to any of the architectural covenants and restrictions contained in this instrument, on such terms and conditions as it shall require. In cases where intent is unclear, the DRC shall have power to give interpretation of the aforementioned protective covenants.

ARTICLE VI

DESIGN REVIEW

6.01 **Design Review Committee.** The Board of Directors of the Association shall appoint a three-member Design Review Committee (the "DRC"), the function of which shall be to ensure that all improvements and landscaping within the Development harmonize with existing surroundings and structures. The DRC need not be composed of Owners. If the DRC is not appointed, the Board itself shall perform the duties required of the DRC.

6.02 **Submission to DRC.** Except for original construction by Declarant, no Unit, or accessory of or addition to a Unit which is visible from another Unit or Lot, shall be constructed or maintained, and no alteration, repainting, or refurbishing of the exterior of any Unit shall be performed, unless complete plans and specifications therefor have first been submitted to and approved by the DRC.

6.03 **Standard.** In deciding whether to approve or disapprove plans and specifications submitted to it, the DRC shall use its best judgment to insure that all improvements, construction, landscaping, and alterations on Lots within the Development conform to and harmonize with existing

surroundings and structures. Any structure hereafter constructed on any Lot in replacement of the structure previously located thereon shall be constructed in substantially the same configuration, location and architectural style and be approximately the same size as the prior structure; and if the plans and specifications therefor meet such criteria, the DRC must approve the same.

6.04 Approval Procedure. Any plans and specifications submitted to the DRC shall be approved or disapproved by it in writing within 40 days after submission. In the event the DRC fails to take any action within such specified period, it shall be deemed to have approved the material submitted except in those respects to which such material is not in conformity with the provisions of this Declaration, as to which respects it shall be deemed disapproved.

6.05 Units. Units constructed on Lots shall meet the following minimum size requirements, exclusive of garages, decks, porches, patios or basements (if any):

- Single level 1,700 sq. ft. minimum
- Two level 1,300 sq. ft. minimum on first or main level
 2,200 sq. ft. minimum in aggregate on first and second levels

All Units on Lots must include an enclosed attached garage with minimum square footage of 600 square feet and parking space for 2 vehicles and may not exceed parking space for 4 vehicles. No building on Lots shall exceed 32 feet in height unless otherwise approved by the DRC. No more than one (1) permanent accessory building shall be permitted on any Lot, and the combined area of such accessory building shall not be larger than the dwelling unit excluding garage.

6.06 Construction. Quality of building materials, color schemes, and landscaping plans shall be as required by the DRC. Exterior building materials shall be hard surface materials only, such as stucco, stone, brick, and cement board siding. The front elevations shall have a minimum of Fifty Percent (50%) in brick or stone. All exterior construction shall be of new materials, except used brick may be used. White illuminative or reflective colored roofs are prohibited. Fascia shall be constructed using materials of at least 2x6 size. All buildings with roof lines that use open gable ends on the main sections shall have not less than a 7/12 pitch and all buildings with hip roof lines on the main sections shall have not less than a 7/12 pitch, or as approved by the DRC. All roofing material must be of either wood shake/shingle or 30-year Architectural Grade shingle or equivalent. The color of roofs and exterior walls of all dwellings or other buildings shall be of muted tones and earth colors. The ridge line of any such accessory building shall not be at an elevation above the ridge line of the dwelling unit. Parking strips must be in grass with flowering pear trees. Any accessory building must conform to the same construction standards as the dwelling unit. No building shall be located on any Lot nearer to the front Lot line than twenty five (25) feet therefrom, measured from the foundation of such building; and all Lots must comply with applicable Salem City building restrictions. Once begun, any improvements, construction, landscaping, or alterations approved by the DRC shall be diligently pursued to completion.

6.07 Liability for Damages. Neither the DRC nor any member thereof shall be held liable for damages by reason of any action, inaction, approval, or disapproval taken or given without malice by such member or the DRC with respect to any request made pursuant to this ARTICLE VII.

ASSOCIATION BYLAWS

THE ASSOCIATION'S BYLAWS ARE HEREBY EMBODIED IN THIS DECLARATION AS ARTICLES XI, XII AND XIII. THE MISCELLANEOUS PROVISIONS OF ARTICLE XIV OF THIS DECLARATION SHALL BE APPLICABLE TO BOTH THE DECLARATION AND BYLAWS PROVISIONS, AS THE CASE MAY BE, TO THE EXTENT NOT IN CONFLICT WITH LAW.

ARTICLE VII

BYLAWS

BYLAWS - MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

7.01 **Membership.** Every Owner, upon acquiring title to a Lot, shall automatically become a member of the Association and shall remain a member thereof until such time as his ownership of such Lot ceases for any reason, at which time his membership in the Association, with respect to such Lot, shall automatically cease and the successor Owner shall become a member. Membership in the Association shall be mandatory, shall be appurtenant to, and shall not be separated from, the ownership of a Lot.

7.02 **Voting Rights.** The Association shall initially have two classes of voting memberships, votes of both classes being of equal value as to all matters except for determining the presence or absence of a quorum at Association meetings, in which case such determination shall be made as if there were no Class B voting rights:

(a) **Class A.** Each Owner, including Declarant, shall be a Class A member entitled to one vote for each Lot in which such member holds the interest required for Association membership.

(b) **Class B.** Declarant shall be the only person entitled to Class B voting rights which shall entitle Declarant to one vote for each Class A voting right outstanding at the time (including any to which Declarant is entitled). Class B voting rights shall terminate and become a nullity on the earlier of:

(i) the expiration of 90 days following the date on which the total outstanding Class A voting rights, other than those held by Declarant, equal the total number of Class B voting rights to which Declarant is entitled pursuant to the provisions of Section 7.02(b); or

(ii) on December 31, 2009; or

(iii) upon surrender of the Class B voting rights by Declarant in writing to the Association.

Upon the termination of the Class B voting rights, all members, including Declarant, shall have equal voting rights as to all matters except as they may be limited in Section 4.03.

7.03 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 between or among themselves, but in no event shall more than the total number of votes appurtenant to such Lot be cast with respect to any issue. A vote cast at any Association meeting, or by written consent by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the entire vote attributable to the applicable Lot unless an objection is made at the meeting, or in writing, by another Owner of the same Lot, in which event no vote will be counted with respect to such Lot except to determine the presence or absence of a quorum.

7.04 Records of Ownership. Every Owner shall promptly cause to be duly filed of record in the Public Records the conveyance document (or in the case of contract buyer, a copy of the sales contract or notice of interest) to him of his Lot and shall file a copy of such conveyance document with the Secretary of the Association, who shall maintain a record of ownership of the Lots. Any Owner who mortgages his Lot or any interest therein 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. The Association may at any time obtain and rely on information from the Public Records regarding the Owners and Mortgagees of Lots.

7.05 Place of Meeting. Meetings of the Association shall be held at such suitable place convenient to the Owners as may be designated by the Secretary of the Association in the notice therefor.

7.06 Annual Meetings. Annual meetings of the membership of the Association shall be held in each year beginning in the year 2007 on such month, day and time as is set forth in the notice therefor; provided, that after the first such annual meeting, a month other than the month of the initial meeting may be chosen if it is deemed by the membership to be more convenient. At such annual meetings there shall be elected Directors of the Board, as needed, pursuant to the provisions of this Declaration. Financial and budget reports shall also be presented at such meetings as well as other business of the Association properly placed before each meeting.

7.07 Special Meetings. The President shall call a special meeting of the Owners as directed by a resolution of the Board or on a petition signed by Owners holding at least thirty percent (30%) of the total votes of the Association having been presented to the Secretary. No business shall be transacted at a special meeting except as stated in the notice therefor unless consented to by fifty percent (50%) or more of the Owners present, either in person or by proxy.

7.08 Notice of Meetings. The Secretary shall mail a notice of each annual or special meeting stating the purpose thereof as well as the time and place of the meeting to each Owner of record at least 10, but not more than 20, days prior to such meeting. The mailing of notice by prepaid U.S. Mail, or by delivery in person, shall be considered notice served.

7.09 Quorum. Except as provided in Section 7.10, Owners present in person or by proxy at any membership meeting duly called pursuant to notice shall constitute a quorum at all meetings, both annual and special; provided, however, that such Owners collectively be entitled to cast at least forty percent (40%) of the total Association votes eligible to vote.

7.10 Adjourned Meetings. If a meeting of Owners cannot be organized because a quorum is lacking pursuant to Section 7.09, the Owners present, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called, at

which time the requirements for a quorum shall be reduced by one-half that required at the immediately preceding meeting.

7.11 **Officers.** The Association shall have a President, a Secretary and a Treasurer, all of whom shall be elected by and from the Board. One person may fill more than one officer position, except for the position of President and Secretary. The Board may appoint a Vice President, Assistant Secretary, and Assistant Treasurer, if desired. One person may fill more than one office, except that the President may not fill the office of Secretary or Vice President. The officers shall be elected by the Board in an organizational meeting of the Board immediately following each annual meeting of Owners at which the new Board are to be elected; provided that until Board members are elected by Owners pursuant to Section 7.13, the officers will be appointed by Declarant.

(a) **President.** The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board. The President shall have all of the general powers and duties that are usually vested in the office of president of a similar type association.

(b) **Vice President.** The Vice President shall take the place of the President and perform his duties whenever the President is absent or unable to act. If neither the President nor Vice President is able to act, the Board shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed on him by the Board.

(c) **Secretary.** The Secretary shall keep the minutes of all meetings of the Board and the minutes of all meetings of the Association. The Secretary shall have charge of such books and records as the Board may direct and he shall, in general, perform all duties incident to the office of secretary of a similar type association.

(d) **Treasurer.** If elected, the Treasurer shall have responsibility for Association funds and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. The Treasurer shall be responsible for the deposit of all money and any other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Board.

7.12 **Initial Composition of Board: Declarant Control.** Declarant alone shall have the right to select the initial Board which may be composed of three members, none of whom need be Owners, or to perform the duties of the Board in place of the Board. Such right of the Declarant to appoint the Board, or to perform its duties, shall remain in Declarant until the termination of the Class B voting rights as provided in Section 7.02(b) at which time the Association shall proceed to elect members of the Board in accordance with the Association's Bylaws as set forth in Section 7.13.

7.13 **Board of Directors or Trustees: Owner Control; Composition, Election, Vacancies.** Subject to the provisions of Section 7.12, the Board shall be composed of five members, each of whom shall be an Owner (or an officer, director, or agent of a non-individual Owner). At the first meeting of Owners to elect the Board, two members shall be elected to a three-year term, two to a two-year term, and one to a one-year term. As members' terms expire, new members shall be elected for three-year terms and shall serve on the Board until their successors are elected. Vacancies on the Board shall be

filled by the remaining Board members from among the Owners, and such appointees shall serve until the next annual meeting of Owners when their successors shall be elected for the unexpired term of the member they were appointed to replace.

7.14 Indemnification of Board. Each of the members of the Board shall be indemnified and held harmless by the Lot Owners against all costs, expenses, and liabilities whatsoever (excluding fraudulent and/or criminal actions) including, without limitation, attorneys fees reasonably incurred in connection with any proceeding in which such Board member may become involved by reason of being, or having been, a member of said Board.

7.15 Board Meetings, Quorum, Board Action. The Board shall establish rules for its meetings, whether regular or special. A majority of current Board members shall constitute a quorum. The action of a majority of those Board members attending a meeting at which a quorum is present shall be sufficient to constitute the action of the Board. Action by consent shall require the unanimous written consent of all current Board members.

ARTICLE VIII

BYLAWS - DUTIES AND POWERS OF THE ASSOCIATION

8.01 Duties of the Association. The Association, through its Board, is responsible for the enforcement of the provisions of this Declaration and, in general, the preservation of the residential quality and character of the Development to the benefit and general welfare of the Owners. Without limiting any other duties which may be imposed upon the Association by its Articles, Bylaws, or the Declaration, the Association shall have the obligation and duty to accept all Owners as members of the Association for the benefit of the Owners and the maintenance and improvement of the Development.

8.02 Powers and Authority of the Association. The Association shall have all the powers set forth in its Articles and 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 the Declaration or the Bylaws. Without in any way limiting the generality of the foregoing, the Association shall have the following powers:

(a) 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 as required by the provision of the Declaration. 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 the Declaration, the Bylaws or any Rules and Regulations promulgated by the Board, or to enforce by mandatory injunction, or otherwise, all of the provisions of the Declaration, the Bylaws and such Rules and Regulations.

(b) In fulfilling any of its duties under the Declaration, the Association shall have the power and authority to obtain, contract and pay for:

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

(ii) Such materials, supplies, equipment, services and labor as the Board may deem necessary.

8.03 **Association Rules and Regulations.** The Board from time to time, subject to and not inconsistent with the provisions of the Declaration or the Bylaws, may adopt, amend, repeal and enforce reasonable Rules and Regulations governing, among other things: (a) the collection and disposal of refuse; (b) uses and nuisances pertaining to the Development; and (c) all other matters concerning the conduct of Owners and their invitees within the Development.

8.04 **Limitation of Liability.** No member of the Board, acting in good faith, shall be personally liable to any Owner, guest, tenant or any other person for any error or omission of the Association, its representatives and employees, the Board, any committee of the Board, or the Managing Agent.

ARTICLE IX

GENERAL PROVISIONS

9.01 **Notices.** Any notice required or permitted to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly furnished if delivered or mailed, postage prepaid, to the person named as the Owner, at the latest address for such person, as reflected in the records of the Association at the time of delivery or mailing. Any notice required or permitted to be given to the Association may be given by delivering or mailing the same to the Managing Agent or any officer or Board member of the Association or to the Association's Registered Agent as reflected in the Association's records at the Office of the Secretary of State of the State of Utah. Any notice required or permitted to be given to the DRC may be given by delivering or mailing the same to the Managing Agent of the Association or any member of the DRC.

9.02 **Amendment.** This Declaration may be amended (as opposed to terminated) by an instrument recorded in the Public Records, which is executed either by Owners who collectively hold at least sixty percent (60%) of the total outstanding votes in the Association, or by the Association's President and Secretary, who shall certify that the required sixty percent (60%) vote was obtained in a Member meeting, or by consent, and is so documented in the records of the Association. No amendment to any provision of this Declaration which has the effect of diminishing or impairing any right, power, authority, privilege, protection, or control accorded to Declarant (in its capacity as Declarant), shall be accomplished or effective unless the instrument through which such amendment is purported to be accomplished is specifically consented to in writing by Declarant.

9.03 **Consent in Lieu of Vote.** In any case in which this Declaration requires for authorization or approval of a transaction the assent or affirmative vote of a stated percentage or number of votes outstanding in the Association, or of the Owners, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Owners entitled to cast at least the stated percentage or number of all votes then outstanding in the Association, unless a higher

percentage or a greater number is required by law. The following additional provisions shall govern any application of this Section 9.03:

- (a) All necessary consents must be obtained prior to the expiration of 90 days after the first consent is given by any Owner;
- (b) The total number of votes required for the applicable authorization or approval shall be determined as of the date on which the last consent is signed;
- (c) Any change in ownership of a Lot which occurs after a consent has been obtained from the Owner thereof shall not be considered or taken into account for any purpose; and
- (d) Unless the consent of all Owners whose memberships are appurtenant to the same Lot are secured, the consent of none of such Owners shall be effective.

9.04 **Declarant's Rights Assignable.** All or any portion of the rights of Declarant under this Declaration, or in any way relating to the Development, may be assigned without the consent of any Owners.

9.05 **Interpretation.** The captions pertaining to the ARTICLE and Section numbers 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, and any gender shall include all genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof, which shall remain in full force and effect. The laws of the State of Utah shall govern the validity, construction and enforcement of this Declaration.

9.06 **Covenants to Run with Land.** This Declaration and all the 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 Declarant, all parties who hereafter acquire any interest in a Lot, their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Lot or Unit shall comply with, and all interests in all Lots shall be subject to, the terms of this Declaration and the provisions of any Rules and Regulations, agreements, instruments, and determinations contemplated by this Declaration. By acquiring any interest in a Lot or Unit, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

9.07 **Enforcement of Restrictions.** The Association, any Owner or any Mortgagee shall have the right to exercise or seek any remedy at law or in equity to interpret, to enforce compliance with, or to obtain redress for violation of, this Declaration. The prevailing party in any such action shall be entitled to collect court costs and reasonable attorney's fees.


9.08 **Duration/Termination:** This Declaration shall remain in effect until such time as there is recorded in the Public Records, following the approval of Salem City authorizing such termination, an instrument of termination which is executed by eighty percent (80%) of the total outstanding votes of the Association, plus the Mortgagee of each and every Lot.

9.9 **Effective Date.** This Declaration, and any amendment hereto, shall take effect upon its

being filed for record in the Public Records.

EXECUTED by Declarant on the day and year first above written.

G & J Construction, Inc.

By: 
Gordon Jones

STATE OF UTAH)
 : ss.
COUNTY OF UTAH)

The within instrument was acknowledged before me this 30th day of January, 2006, by Gordon Jones, as President of G & J Construction, Inc.



Danica Nelson
NOTARY PUBLIC

EXHIBIT A**DECLARATION OF EASEMENTS, COVENANTS,
CONDITIONS AND RESTRICTIONS****Autumn Hills****Salem City, Utah County, Utah**

THIS DESCRIPTION OF THE ADDITIONAL LAND IS SET FORTH AND ATTACHED IN THIS EXHIBIT A TO THE DECLARATION SOLELY FOR PURPOSES OF IDENTIFICATION. THE DECLARATION IS NOT INTENDED AS AND SHOULD NOT BE DEEMED TO CONSTITUTE ANY LIEN, ENCUMBRANCE, RESTRICTION, OR LIMITATION UPON ANY PORTION OF THE ADDITIONAL LAND UNLESS AND UNTIL SUCH PORTION IS ADDED TO THE DEVELOPMENT IN ACCORDANCE WITH THE PROVISIONS OF THE DECLARATION.

Three parcels of land lying in Utah County, State of Utah described as follows:

NORTHEAST

A portion of the SE1/4 of Section 12, Township 9 South, Range 2 East, Salt Lake Base & Meridian, located in Salem, Utah, more particularly described as follows:

Beginning at a point located S89°25'00"W along the Section line 687.49 feet and N0°18'54"W 1,161.51 feet from the Southeast Corner of Section 12, T9S, R2E, S.L.B.&M.; thence West 493.01 feet; thence Northeasterly along the arc of a 333.00 foot radius non-tangent curve (radius bears: N88°05'34"W) 11.71 feet through a central angle of 2°00'54" (chord: N0°53'59"E 11.71 feet); thence N0°06'28"W 99.94 feet; thence along the arc of a 15.00 foot radius curve to the right 23.49 feet through a central angle of 89°43'18" (chord: N44°45'11"E 21.16 feet); thence N0°23'10"W 34.78 feet; thence N89°28'14"E 477.46 feet; thence S0°18'54"E 165.87 feet to the point of beginning.

Contains: 1.84+/- acres

SOUTHEAST

A portion of the SE1/4 of Section 12, and the NE1/4 of Section 13, Township 9 South, Range 2 East, Salt Lake Base & Meridian, located in Salem, Utah, more particularly described as follows:

Beginning at a point located S89°25'00"W along the Section line 687.49 feet and S0°18'54"E 4.06 feet from the Southeast Corner of Section 12, T9S, R2E, S.L.B. & M.; thence S89°36'00"W 600.16 feet; thence N0°24'00"W 30.17 feet; thence Northwesterly along the arc of a 15.00 foot radius non-tangent curve (radius bears: N0°24'00"W) 24.37 feet through a central angle of 93°04'26" (chord:

N43°51'47"W 21.78 feet) to a point of compound curvature; thence along the arc of a 967.00 foot radius curve to the right 103.27 feet through a central angle of 6°07'08" (chord: N5°44'00"E 103.22 feet) to a point of reverse curvature; thence along the arc of a 533.00 foot radius curve to the left 85.09 feet through a central angle of 9°08'50" (chord: N4°13'09"E 85.00 feet); thence N0°21'16"W 50.47 feet; thence along the arc of a 15.00 foot radius curve to the right 23.65 feet through a central angle of 90°21'16" (chord: N44°49'22"E 21.28 feet); thence N0°30'57"W 66.00 feet; thence Northwesterly along the arc of a 15.00 foot radius non-tangent curve (radius bears: North) 23.47 feet through a central angle of 89°38'44" (chord: N45°10'38"W 21.15 feet); thence N0°21'16"W 119.65 feet; thence East 597.80 feet; thence S0°18'54"E 495.28 feet to the point of beginning.

Contains: 6.84+/- acres

NORTHWEST

A portion of the SE1/4 of Section 12, Township 9 South, Range 2 East, Salt Lake Base & Meridian, located in Salem, Utah, more particularly described as follows:

Beginning at a point located S89°25'00"W along the Section line 1,337.78 feet and North 941.63 feet from the Southeast Corner of Section 12, T9S, R2E, S.L.B.&M.; thence N0°21'16"W 352.03 feet; thence N89°36'50"E 71.92 feet; thence along the arc of a 15.00 foot radius curve to the right 23.64 feet through a central angle of 90°16'42" (chord: S45°14'49"E 21.26 feet); thence S0°06'28"E 99.47 feet; thence along the arc of a 267.00 foot radius curve to the right 126.90 feet through a central angle of 27°13'52" (chord: S13°30'28"W 125.71 feet); thence S27°07'24"W 81.97 feet; thence along the arc of a 333.00 foot radius curve to the left 46.67 feet through a central angle of 8°01'47" (chord: S23°06'30"W 46.63 feet) to the point of beginning.

Contains: 22,333+/- s.f.