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DECLARATION OF COVENANTS, CONDITIONS AND

RESTRICTIONS

FOR

SADDLEBACK AT SMITH RANCH SUBDIVISION,

A SUBDIVISION LOCATED

IN

UTAH COUNTY, UTAH

SADDLEBACK PROPERTY, L.C.
a Utah limited liability company

AS DECLARANT

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
SADDLEBACK AT SMITH RANCH SUBDIVISION**

THIS Declaration of Covenants, Conditions and Restrictions for SADDLEBACK AT SMITH RANCH SUBDIVISION is made and executed by SADDLEBACK PROPERTY, L.C., a Utah limited liability company, whose principal address is 758 South 400 East, #203, Orem, Utah 84097 and the Town of Eagle Mountain, who is included as a party Declarant in this Declaration for the purpose of permitting the Town to enforce the specific architectural standards approved by the Town for the SADDLEBACK AT SMITH RANCH community, although the Town is not the record owner of the Property. SADDLEBACK, L.C. and the Town of Eagle Mountain are hereinafter referred jointly as the "Declarant" unless the context clearly requires otherwise.

RECITALS:

- A. The Property is an area of unique natural beauty, featuring distinctive terrain;
- B. By subjecting the Property to this Declaration, it is the desire, intent and purpose of Declarant to create a community in which beauty shall be substantially preserved, which will enhance the desirability of living on that real estate subject to this Declaration, and which will increase and preserve the attractiveness, quality and value of the lands and improvements therein.
- C. This Declaration of Covenants, Conditions and Restrictions affects that certain real property located in Utah County, Utah described with particularity in Article II below (hereinafter referred to as the "Tract").
- D. Declarant is the owner of the Tract.
- E. These covenants, conditions and restrictions are subject to and, to the extent they are inconsistent with, shall be superseded by The Ranches Master Covenants, Conditions and Restrictions including The Ranches Community Design Guidelines, attached hereto as an exhibit, to be recorded by The Ranches, L.C., Declarant of the entire project known as The Ranches, of which Saddleback is a part. The subordination of these Covenants, Conditions and Restrictions to the Master Covenants, Conditions and Restrictions shall be recorded in the future and is not subject to the approval of any buyers of lots or homes in Saddleback.
- F. This Declaration of Covenants, Conditions and Restrictions is created and filed pursuant to Article 4.4 of the COMMUNITY DECLARATION.
- G. Declarant has constructed, is in the process of constructing or will construct upon the Tract a residential subdivision which shall include certain Lots, Common Area and other improvements. All of such construction has been, or is to be, performed in accordance with the COMMUNITY DECLARATION and plans contained in the Record of Plat Map to be recorded concurrently herewith.

H. Declarant intends to sell to various purchasers fee title to the individual Lots or Dwelling Units contained in the Tract, and a corresponding membership interest in the COMMUNITY ASSOCIATION, subject to the Record of Survey Map and the covenants, conditions and restrictions set forth herein and the COMMUNITY DECLARATION.

I. Since the completion of the Project may be in phases, the completed Project will consist of the original phase and all subsequent phases.

J. Declarant desires, by filing this Declaration and Record of Plat Map, to submit the Tract and all improvements now or hereafter constructed thereon to the terms, covenants and conditions of this Declaration and the COMMUNITY DECLARATION.

K. The Project is to be known as SADDLEBACK AT SMITH RANCH .

NOW, THEREFORE, Declarant hereby declares that the Property is and shall henceforth be owned, held, conveyed, encumbered, leased, improved, used, occupied and enjoyed subject to the following uniform covenants, conditions, restrictions and equitable servitudes. The said covenants, conditions, restrictions and equitable servitudes are in furtherance of, and the same shall constitute a general plan for the ownership, improvement, sale, use and occupancy of the Property; they are also in furtherance of and designed to accomplish the desires, intentions, and purposes set forth above in the Recitals. The Town of Eagle Mountain is intended to be a third party beneficiary of this agreement. Provided, however, these covenants, conditions, restrictions and equitable servitudes are subject to and, to the extent they are in conflict, incongruent or inconsistent with, shall be preempted and superceded by the COMMUNITY DECLARATION, including without limitation any design guidelines required by the Town (including any exceptions and waivers), which are attached hereto, marked Exhibit "F" and incorporated herein by this reference. The subordination of these covenants, conditions, restrictions and equitable servitudes to the COMMUNITY DECLARATION is not subject to the approval of any buyers of Lots or Dwelling Units in the Property.

I. DEFINITIONS

It is the Declarant's intent to define key terms in a manner identical to or consistent with the terms used in the COMMUNITY DECLARATION. When used in this Declaration (including in that portion hereof entitled "Recitals"), each of the following terms shall have the meaning indicated unless the context clearly requires otherwise. In the event of any conflict, inconsistency or incongruity between the following definitions and those set forth in the COMMUNITY DECLARATION, the latter shall in all instances govern and control.

1. Activity Card shall mean and refer to those certain cards which are issued by the Association and which confer upon the holder rights of access to and use of recreational facilities and other Common Areas within the Project or within the real property governed by the COMMUNITY DECLARATION (subject to the payment of greens fees, admission fees, or other use fees established by the Management Committee from time to time).

2. Additional Charges shall mean and refer cumulatively to all collection and administrative costs, including but not limited to all attorney's fees, late charges, service fees, filing and recordation fees, accruing interest, fines, and expenditures actually incurred or assessed by the Association or where the context so requires, the COMMUNITY ASSOCIATION.
3. Area of Common Responsibility shall mean and refer to those areas which the COMMUNITY ASSOCIATION is responsible to maintain, repair and replace as the need arises.
4. Area of Personal Responsibility shall mean and refer to those areas which the Lot Owner is responsible to maintain, repair and replace as the need arises.
5. Architectural Review Committee or ARC shall mean and refer to the Design Review Committee established by the MASTER ASSOCIATION Management Committee to review all plans and applications for the construction and modification of improvements on the Property (subject to the rights reserved to Declarant) and to administer and enforce the architectural controls and guidelines.
6. Assessments shall mean and refer the allocation of Common Expenses assessed to the Lot Owners.
7. Association shall mean the COMMUNITY ASSOCIATION acting as a group in accordance with the COMMUNITY DECLARATION.
8. Base Assessment shall mean and refer to the base fee levied on all Lots subject to assessment to fund Common Expenses for the general benefit of all Lots and Lot Owners.
9. Benefitted Assessment shall mean and refer to an Assessment levied against a particular Lot or Lots for expenses incurred or to be incurred by the Association in accordance with this Declaration.
10. Board of Trustees shall mean and refer to the MASTER ASSOCIATION Management Committee, the body responsible for establishing the operational and corporate policies of the COMMUNITY ASSOCIATION and for overseeing their implementation and enforcement.
11. Builder shall mean and refer to any Person purchasing one or more Lots to construct Dwelling Units thereon for later sale or one or more Lots or parcels of land within the Project to subdivide, develop, and/or resell in the ordinary course of such Person's business.
12. Building shall mean and refer to any of the structures constructed in the Project.
13. Business and Trade shall be construed to have their ordinary and generally accepted meanings, which shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the

provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (a) such activity is engaged in full or part-time; (b) such activity is intended to or does generate a profit; or (c) a license is required therefor. Anything to the contrary notwithstanding, the leasing of a residence shall not be considered a trade or business within the meaning of this sub-Section.

14. Capital Improvement shall mean and refer to each significant fixed physical asset within the Project, included in its original design or construction, or subsequently added to the Project, intended to extend its useful life and/or enhance, upgrade and improve the utility, value or beauty of the Common Areas or Facilities. The term Capital Improvement shall be deemed to include the repair, maintenance or replacement of said capital assets.

15. Capital Improvement Expenses shall mean and refer to all expenses related to the design, purchase, installation, construction, maintenance, repair or replacement of a Capital Improvement.

16. Class B Control Period shall mean and refer to the period during which the Class "B" Member is entitled to appoint a majority of the members of the Management Committee. The Class "B" Control Period shall expire when the Period of Declarant's Control terminates or is terminated.

17. Committee shall mean and refer to the MASTER ASSOCIATION Management Committee.

18. Common Areas or Common Areas and Facilities shall mean and refer to all real property defined as "Common Area" in the COMMUNITY DECLARATION, including that real property located within the Project in which the Association owns an interest for the common use and benefit of its Members, their successors, assigns, tenants, families, guests and invitees, including but not limited to the following items: (a) The real property and interests in real property submitted hereby, including the entirety of the Tract and all improvements constructed thereon, excluding the individual Lots; (b) All Common Areas and Facilities designated as such in the Plat Map or Maps; (c) All utility installations and all equipment connected with or in any way related to the furnishing of utilities to the Project and intended for the common use of all Lot Owners, such as telephone, electricity, gas, water, and sewer; (d) All portions of the Project not specifically included within the individual Lots; and (e) All other parts of the Project normally in common use or necessary or convenient to the use, existence, maintenance, safety, operation or management of the Property owned by the Association for the common benefit of its Members. Provided, however, utility installations such as telephone, electricity, gas, water and sewer are and shall be dedicated to the Town of Eagle Mountain and this definition shall not be construed to allow the Association to exclude the Town from the ownership and control of the utility systems dedicated to the Town.

19. Common Expense shall mean and refer to: (a) All sums lawfully assessed against the Lot Owners; (b) Expenses of administration, maintenance, repair, or replacement of the

Common Areas and Facilities; (c) Expenses allocated by the COMMUNITY ASSOCIATION; (d) Expenses agreed upon as common expenses by the COMMUNITY ASSOCIATION; and (e) Expenses declared common expenses by the Project Documents.

20. Community shall mean and refer to the entire Project or where the context so requires, the SADDLEBACK AT SMITH RANCH SUBDIVISION.

21. Community Association shall mean and refer to the association of owners of lots within THE RANCHES AT EAGLE MOUNTAIN acting as a group in accordance with the COMMUNITY DECLARATION.

22. Community Wide Standard shall mean and refer to the standard of conduct, maintenance, or other activity generally prevailing in the Community as determined by the Management Committee from time to time.

23. Covenant to Share Costs shall mean and refer to any declaration of easements and/or covenant to share costs executed by Declarant or the MASTER ASSOCIATION and recorded in the Office of the County Recorder which creates easements for the benefit of the COMMUNITY ASSOCIATION and the present and future owners of real property subject to such Covenant to Share Costs and/or which obligates the COMMUNITY ASSOCIATION and such owners to share the costs of maintaining certain property described therein.

24. Declaration shall mean and refer to this Declaration of Covenants, Conditions and Restrictions of SADDLEBACK AT SMITH RANCH or where the context so requires, the COMMUNITY DECLARATION.

25. Declarant shall mean and refer to SADDLEBACK PROPERTY, L.C., a Utah limited liability company, and its successors and assigns, unless otherwise indicated, and, where the context so requires, the Town of Eagle Mountain.

26. Dedicated Streets shall mean and refer to those streets and cul-de-sacs within the Project formally dedicated to the COMMUNITY ASSOCIATION, Town of Eagle Mountain, Utah County, or any other municipal or governmental body politic, entity or agency.

27. Exterior Materials shall mean and refer to stone, rock, stucco, wood, vinyl and aluminum siding, finished lumber, brick, or other similar materials but shall not mean cinder or concrete block. Exterior residence materials shall be of a noncombustible material as approved by the Town of Eagle Mountain. The determination whether any specific material constitutes an acceptable Exterior Material shall be made by the Town, Design Review Committee or ARC or their designee.

28. Design Guidelines shall mean and refer to The Ranches Community Design Guidelines or where the context requires the design guidelines adopted by the Town or the Declarant.

29. Design Review Committee shall mean and refer to the design review or architectural control committee established by The Ranches, L.C. or where the context requires, the ARC.

30. Dwelling Unit shall mean and refer to any building or structure or portion of any building or structure situated upon a Lot which is intended for use and occupancy as an attached or detached residence for a single family.

31. Saddleback shall mean and refer to the SADDLEBACK AT SMITH RANCH SUBDIVISION located in Utah County, Utah.

32. Eligible Insurer shall mean and refer to an insurer or governmental guarantor of a mortgage or trust deed who has requested notice in writing of certain matters from the Association in accordance with this Declaration.

33. Eligible Mortgagee shall mean and refer to a mortgagee, beneficiary under a trust deed, or lender who has requested notice in writing of certain matters from the Association in accordance with this Declaration.

34. Eligible Votes shall mean and refer to those votes available to be cast on any issue before the Association or the Committee. A vote which is for any reason suspended is not an "eligible vote".

35. Family shall mean and refer to a group of natural persons related by blood, adoption or marriage, or up to four (4) unrelated persons residing in the same Dwelling Unit and maintaining a common household.

36. Guest shall mean and refer to a visitor, invitee or person whose temporary presence within the Project is approved by or is at the request of a particular resident.

37. Improvement shall mean and refer to every structure and all appurtenances thereto of every type and kind, including but not limited to, buildings, patios, tennis courts, swimming pools, garages, mailboxes, aerials, antennas, satellite dishes, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreak, planting, planted trees and shrubs, poles, signs, exterior air conditioning, water softener fixtures or equipment, pumps, wells, tanks, reservoirs, pipes, lines, meters, towers, and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

38. Land shall mean and refer to all of the real property within the Project and subject to this Declaration or where the context so requires, the COMMUNITY DECLARATION.

39. Lot shall mean and refer to a portion of the Property, other than the Common Area, intended for any type of independent ownership and use as may be set out in this Declaration and as shall be shown on the Plat Map filed with this Declaration or amendments thereto. Where the

context indicates or requires, the term Lot includes any dwelling or living unit, physical structure or improvement constructed on the Lot.

40. Lot Number shall mean and refer to the number, letter or combination thereof designating a particular Lot.

41. Lot Owner shall mean and refer to (a) the Person(s), including without limitation the Declarant, holding an aggregate fee simple interest in a Lot or, as the case may be (b) the purchaser of an aggregate fee simple interest in a Lot under an executory land sales contract. The term Lot Owner does 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.

42. Majority shall mean and refer to those eligible votes of Owners or other groups as the context may indicate totaling more than fifty (50%) percent of the total eligible number.

43. Management Committee shall mean and refer to Board of Directors or Trustees of the COMMUNITY ASSOCIATION.

44. Manager shall mean and refer to the person or entity appointed or hired to manage and operate the Project.

45. Map shall mean and refer to the Plat Map for SADDLEBACK AT SMITH RANCH on file in the office of the County Recorder of Utah County.

46. Master Plans shall mean and refer to the plans for the development of SADDLEBACK AT SMITH RANCH as set forth in that certain Declaration of Covenants, Conditions and Restrictions recorded in the Office of the County Recorder of Utah County, Utah on _____ as Entry No. _____ in Book _____ at Page _____ of the Official Records, and as they may be amended, updated, or supplemented from time to time. The Master Plans encompass the property described in Exhibit "A." The Master Plans may also include subsequent plans for the development of all or a portion of additional property which may from time to time be submitted to the COMMUNITY DECLARATION. Inclusion of property on the Master Plans shall not, under any circumstances, obligate Declarant to subject such property to this Declaration nor shall the exclusion of property from the Master Plans bar its later annexation in accordance.

47. Member shall mean and refer to a Lot Owner obligated, by virtue of his ownership of a Lot in the Project to be a shareholder in the COMMUNITY ASSOCIATION. In addition and where the context so requires the term Member may mean and refer to a participant in a group. By way of illustration but not limitation this may include membership in the Management Committee or a subcommittee.

48. Mortgage shall mean and refer exclusively to either a first mortgage or first deed of trust on any Lot, but shall not mean or refer to a uniform real estate contract, land sales contract or an executory contract of sale.

49. Mortgagee shall mean and refer exclusively to a mortgagee under either a first mortgage or a beneficiary under a first deed of trust on any Lot, but shall not mean or refer to a seller under a uniform real estate contract, land sales contract, or an executory contract of sale.

50. Occupy, Occupies or Occupancy shall mean and refer to staying overnight in a particular Dwelling Unit for at least sixty (60) days during any twelve (12) month period.

51. Office of the County Recorder shall mean and refer to the Office of the County Recorder of Utah County, Utah.

52. Owner shall mean and refer to the Lot Owner.

53. Period of Declarant's Control shall mean and refer to a period of time commencing on the date this Declaration is recorded and terminating upon the first to occur of the following events: (a) when 100% of the Lots have been conveyed to Class "A" Members and permanent certificates of occupancy have been issued on all of the Dwelling Units built thereon, (b) December 31, 2045, or (c) when, in its discretion, the Class "B" Member so determines.

54. Permanent Resident shall mean and refer to a person who resides in the Project for more than four (4) consecutive weeks or for more than eight (8) weeks in any twelve (12) month period.

55. Person shall mean and refer to a natural person, corporation, partnership, trust, limited liability company, or other legal entity.

56. Plans and Specifications shall mean and refer to any and all documents designed to guide or control the construction of an Improvement, or alterations, modifications, changes, additions and the like thereto, including without limitation all documents indicating the size, shape, configuration and/or materials, to be incorporated; all site plans, excavation and grading plans, elevation drawings, floor plans, techniques, samples of exterior colors, plans for utility services, and all other documentation or information relevant to the improvement or proposal in question.

57. Plat Map shall mean and refer to the "Record of Survey Map or Maps of SADDLEBACK AT SMITH RANCH or where the context so requires, the "Record of Survey Map of The Ranches at Eagle Mountain subdivision," on file in the office of the County Recorder of Utah County, as they may be amended from time to time. The Plat Map will show the location of the Lots, Dwelling Units and Common Area.

58. Private Amenity shall mean and refer to certain real property and any improvements and facilities thereon located adjacent to, in the vicinity of or within the Project, which are privately owned and operated by Persons other than the Association for recreational and related purposes, on a club membership basis or otherwise. Any property constituting a Lot, Dwelling Unit, or Common Area hereunder shall not be a Private Amenity.

59. Private Way or Private Drive shall mean and refer to those ways, drives or turnabouts within the Project not dedicated to any city, county, state or other governmental body politic, entity or agency.

60. Project shall mean and refer to THE RANCHES AT EAGLE MOUNTAIN and where the context so requires, the SADDLEBACK AT SMITH RANCH SUBDIVISION.

61. Project Documents shall mean collectively the documents governing the Project, including but not limited to the COMMUNITY DECLARATION, By-Laws, House and Administrative Rules and Regulations, the Articles of Incorporation for the MASTER ASSOCIATION and this Declaration.

62. Property shall mean and refer to all of the land or real estate, improvements and appurtenances submitted to this Declaration, and where the context so requires, all of the land or real estate, improvements and appurtenances submitted to the COMMUNITY DECLARATION.

63. Record, Recorded and Recordation shall mean and refer, with respect to any document, the recordation of such document in the Office of the County Recorder of Utah County, Utah.

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

65. Single Family Home or Residence shall mean and refer to both the architectural style of a Dwelling Unit and the nature of the residential use thereof or activity permitted therein.

66. Subdivision shall mean and refer to the SADDLEBACK AT SMITH RANCH SUBDIVISION, a parcel of land, which has been shown on a final and recorded subdivision plat consisting of two (2) or more Lots.

67. Total Votes shall mean and refer to the total number of available votes in the Project.

68. Town shall mean and refer to the Town of Eagle Mountain.

69. Use Restrictions shall mean and refer to the rules and use restrictions set forth below, as they may be modified, amended, repealed, canceled, limited, withdrawn or expanded.

II. SUBMISSION

The Land, described with particularity on Exhibit "A" attached hereto and incorporated herein by this reference, is located in Utah County, Utah. The Land is situated within the SADDLEBACK AT SMITH RANCH SUBDIVISION. The Land is hereby submitted to the terms, covenants and conditions of, is hereby made subject to, and shall be governed and regulated by, this Declaration and the COMMUNITY DECLARATION. The Land is also subject to the right of the Town of Eagle Mountain to access to the roads within the SADDLEBACK AT SMITH RANCH SUBDIVISION for emergency vehicles, etc., and to all of the utility installations up to the residential meters, or, in the case of the sewer laterals, from the Lot line leading to the individual Dwelling Units. In addition:

The Land is SUBJECT TO the described easements and rights of way, 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. Easements and rights-of-way in favor of the Town of Eagle Mountain include the roadways and utility easements and are depicted on the plat of the SADDLEBACK AT SMITH RANCH SUBDIVISION.

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; any mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described Tract or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible and necessary easements and rights-of-way; all easements and rights-of-way of record; any easements, rights of-way, encroachments, or discrepancies shown on or revealed by the Plat Maps or otherwise existing; an easement for each and every common area improvement, equipment, pipes, lines, cables, wires, utility systems, or similar facilities which traverse or partially occupy the above-described Tract; and all easements necessary for servicing, repairing, ingress to, egress from, maintenance of, and replacement of all such common area improvements, equipment, pipes, lines, cables, wires, utility systems, and similar facilities.

III. COVENANTS, CONDITIONS, AND RESTRICTIONS

The foregoing submission is made upon and under the following covenants, conditions, and restrictions, subject to the COMMUNITY DECLARATION:

1. Description of Improvements. The significant improvements in SADDLEBACK AT SMITH RANCH include, or shall include, residential Lots and Dwelling Units, together with Common Area in the Project. The Project will also contain other improvements of a less significant nature.

2. Description and Legal Status of the Property. The Lots shall be individually owned and the Common Area shall be owned by the Association or where the context so requires, the COMMUNITY ASSOCIATION, subject to easements of record and the Town of Eagle Mountain's easements, rights-of-way and rights of access.

3. Membership in the Association. Membership in the COMMUNITY ASSOCIATION is appurtenant to the ownership of a Lot, and may not be partitioned therefrom.

4. Conveyancing. Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering a Lot shall describe the interest or estate involved substantially as follows:

All of LOT NO. _____ contained within SADDLEBACK AT SMITH RANCH SUBDIVISION as the same is identified in the Record of Plat Map recorded in Utah County, Utah as Entry No. _____, in Book _____, at Page _____ (as said Record of Plat Map may have heretofore been amended or supplemented) and the Declaration of Covenants, Conditions and Restrictions for SADDLEBACK AT SMITH RANCH, recorded on the ____ day of _____, 1999 as Entry No. _____ in Book _____ at Page _____ of the Official Records of Utah County, Utah (as said Declaration may have heretofore been amended or supplemented) and the COMMUNITY DECLARATION recorded the ____ day of _____, 1999 as Entry No. _____ in Book _____ at Page _____ of the Official Records of Utah County, Utah, together with an appurtenant membership interest in and to the COMMUNITY ASSOCIATION and the Association.

Regardless of whether or not the description employed in any such instrument is in the above-specified form, 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. Neither the membership in the COMMUNITY ASSOCIATION, nor the right of non-exclusive use of a Common Area shall be separated from the Lot to which it appertains; and, even though not specifically mentioned in the instrument of transfer, such mandatory membership in the COMMUNITY ASSOCIATION and such right of exclusive use shall automatically accompany the transfer of the Lot to which they relate.

5. Use Restrictions.

a) Plan of Development: Applicability: Effect. Declarant has established a general plan of development for the Project as a master planned community in order to protect all Owners' quality of life and collective interests, the aesthetics and environment within the Project and the vitality of and sense of community within the Project, all subject to the Management Committee's and the Members' ability to respond to changes in circumstances, conditions, needs, and desires within SADDLEBACK AT SMITH RANCH. The Project is subject to the land development, architectural, and design provisions described herein, the other provisions of this Declaration governing individual conduct, and uses of or actions upon the Project, and the guidelines, rules, and restrictions promulgated pursuant hereto, as each may be amended from time to time, all of

which establish affirmative and negative covenants, easements, and restrictions on the Project. Except as otherwise expressly provided herein, all provisions of this Declaration and any rules shall apply to all Owners, occupants, tenants, guests, and invitees of any Lot. Any lease on any Lot shall provide that the lessee and all occupants of the leased Lot shall be bound by the terms of the Project Documents.

b) Authority to Promulgate Use Restrictions and Rules. (a) Subject to the terms of this section and in accordance with its duty of care and undivided loyalty to the COMMUNITY ASSOCIATION and its Members, the Management Committee may amend the Use Restrictions and may adopt rules which modify, cancel, limit, create exceptions to, or expand the Use Restrictions then in effect. So long as the Declarant owns any of the Property, the Declarant may, acting independently, promulgate use restrictions and rules without additional approval required. The MASTER ASSOCIATION shall provide, without cost, a copy of the Use Restrictions and rules then in effect to any requesting Member or Mortgagee. Nothing in this section shall independently authorize the Management Committee or the Members to amend, repeal, or expand the Declaration, the By-Laws, the Articles or the Design Guidelines. Such documents may be amended only as and in the manner provided therein.

c) Owners' Acknowledgment. All Owners are subject to the Use Restrictions and are given notice that (1) their ability to use their privately owned property is limited thereby, (2) the Management Committee and/or the Members may amend the Use Restrictions or adopt rules which modify, cancel, limit, create exceptions to, or expand the Use, and (3) the Declarant may amend the Use Restrictions or other portions of this Declaration.

Each Owner by acceptance of a deed acknowledges and agrees that the use and enjoyment and marketability of his or her property can be affected by this provision and that the Use Restrictions and rules may change from time to time.

d) Rights of Owners. Except as may be specifically set forth in the Initial Use Restrictions, neither the Management Committee nor the Members may adopt any rule in violation of the following provisions:

1) Similar Treatment. Similarly situated Owners and occupants shall be treated similarly.

2) Religious and Holiday Displays. The rights of Owners and occupants to display religious and holiday signs, symbols, and decorations on their Lots of the kinds normally displayed in residences located in single family residential neighborhoods shall not be abridged, except that the COMMUNITY ASSOCIATION may adopt time, place, and manner restrictions regulating displays which are visible from outside the Lot.

3) Household Composition. No rule shall interfere with the freedom of occupants of Dwelling Units to determine the composition of their households, except that the Declaration limits residency in a Dwelling Unit to a single family and the COMMUNITY

ASSOCIATION shall have the power to limit the total number of occupants permitted in each Dwelling Unit on the basis of the size and facilities of the Dwelling Unit and its fair share use of the Common Area.

4) Activities Within Dwelling Units. No rule shall interfere with the activities carried on within the confines of Dwelling Units, except that the COMMUNITY ASSOCIATION may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the COMMUNITY ASSOCIATION or other Owners, that create a danger to the health or safety of occupants of other Dwelling Units, that generate excessive noise or traffic, that create unsightly conditions visible from outside the Dwelling Unit, or that create an unreasonable sounds of annoyance.

5) Allocation of Burdens and Benefits. No rule shall alter the basis for allocation of financial burdens among various Lots or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the COMMUNITY ASSOCIATION. Nothing in this provision shall prevent the COMMUNITY ASSOCIATION from changing the use of the Common Area, from adopting generally applicable rules for use of Common Area, or from denying use privileges to those who abuse the Common Area, violate rules or this Declaration, or fail to pay assessments. This provision does not affect the right to increase the amount of Assessments.

6) Alienation. No rule shall prohibit the leasing or transferring of any Lot, or require consent of the COMMUNITY ASSOCIATION or Management Committee for leasing or transferring of any Lot; provided, the COMMUNITY ASSOCIATION or the Management Committee may require a minimum lease term of up to twelve (12) months. The COMMUNITY ASSOCIATION may require that Owners use lease forms approved by the Association (or include specific terms in their leases), and may impose a review or administration fee on the lease or transfer of any Lot.

7) Reasonable Rights to Develop. No rule or action by the COMMUNITY ASSOCIATION or Management Committee shall unreasonably impede Declarant's right to develop in accordance with the Master Plans, including, but not limited to, the rights of the Declarant as set forth herein.

8) Abridging Existing Rights. Any rule which would require Owners to dispose of personal property being kept on the Property shall apply prospectively only and shall not require the removal of any property which was being kept on the Property prior to the adoption of such rule and which was in compliance with all rules in force at such time unless otherwise required to be removed by law. The limitations in this subsection shall apply to rules only; they shall not apply to amendments to this Declaration.

9) Nature and Restrictions on Ownership and Use in General. Each Owner shall have and enjoy the privileges of fee simple ownership of his Lot. There shall be no

requirements concerning who may own a Lot, it being intended that they may and shall be owned as any other property rights by persons. This is a residential community and as such the Lots shall be used only for residential purposes, except as expressly set forth below, and the Common Areas shall only be used in a manner consistent with the residential nature of the Project.

10) 10) Title to the Common Area. The Common Area shall be owned by the COMMUNITY ASSOCIATION or, where the context so requires, the Town.

11) Mandatory Association. Each purchaser of a Lot by virtue of his acceptance of a deed or other document of conveyance shall automatically become a Member of the COMMUNITY ASSOCIATION.

12) Joint or Common Utility Easements with Neighboring Subdivisions, Project or Developments. The Declarant or Builder, for themselves and their successors in interest (including but not limited to the Association), hereby reserves the irrevocable and exclusive right, without any additional consent required, to enter into easement agreements with or to convey to the Town of Eagle Mountain, owners or developers of adjoining subdivisions, projects or developments any and all reasonable and necessary utility easements or rights of way for gas, water, power, sewer, storm drain systems or the like under, over, across or through the Project.

13) Member's Easements and Rights of Way. Every Member of the COMMUNITY ASSOCIATION shall as an Owner have the right and non-exclusive easement to use and enjoy the Common Area. Such right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following restrictions: (a) The right of the COMMUNITY ASSOCIATION to limit the number of guests and residents; (b) The right of the COMMUNITY ASSOCIATION to suspend the voting privilege; and (c) The right of the COMMUNITY ASSOCIATION to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for the purpose of regulating transportation, maintaining the roadways or providing utilities and other similar or related purposes. During the Developer's period of development of the Project, any such dedication or transfer shall be effective only if approved in writing by the Declarant.

14) Rules and Regulations. The Management Committee, shall have the power and authority to modify, cancel, limit, create exceptions to, or expand the administrative and house rules and regulations, and architectural guidelines, from time to time.

15) Prohibited Activities. The following activities are prohibited within the Property unless expressly authorized by, and them subject to such conditions as may be imposed by, the Management Committee:

(a) Posting of signs of any kind, including posters, circulars, campaign signs, political signs, and bills, except those required by law and except as permitted by the Management Committee, Design Guidelines, this Declaration or the COMMUNITY DECLARATION, on any Lot Common Area, or right-of-way;

(b) Subdivision of a Lot into two or more Lots after a subdivision plat including such Lot has been approved and filed with the appropriate governmental authority, or changing the boundary lines of any Lot, except that the Declarant and Builders, with Declarant's consent, shall be permitted to subdivide or change the boundary lines of Lots which they own;

(c) Active use of lakes, ponds, streams, or other bodies of water within the Project. The COMMUNITY ASSOCIATION shall not be responsible for any loss, damage, or injury to any Person or property arising out of the authorized or unauthorized use of lakes, ponds, streams, or other bodies of water within or adjacent to the Property;

(d) Operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Dwelling Unit rotates among participants in the program on a fixed or floating time schedule over a period of years, except that Declarant and its assigns may operate such a program with respect to Dwelling Units which it owns;

(e) Occupancy of a Dwelling Unit by more than two persons per bedroom in a Dwelling Unit;

(f) Capturing, trapping or killing wildlife within the Property, except (1) in circumstances posing an imminent threat to the safety of persons or pets using the Property; and/or (2) when authorized and supervised by the Management Committee in accordance with a game management program and with the Consent of the Declarant as long as it owns any Property which it owns;

(g) Activities which materially disturb or destroy the vegetation, wildlife, or air quality within the Property or which result in unreasonable levels of sound or light pollution;

(h) Disposal of any oil, gas, or lubricants, and the storage or disposal of other hazardous materials (as may be determined in the Management Committee's reasonable discretion and as defined by applicable law) anywhere within the Property;

(I) Parking of any vehicle (including, but not limited to, any car, truck, motorcycle, boat, or trailer) containing or displaying a "for sale" sign, or other indication of being "for sale," in any driveway or other portion of any Lot, or on any street or any portion of the Common Area; and

(j) No electronic or radio transmitter of any kind, other than garage door openers, shall be located or operated in or on any Improvement or on any Lot with the prior written consent of the Design Review Committee or ARC.

(k) No garage, patio, porch or lawn sale shall be held on any Lot, except that a Lot Owner may conduct such a sale if the items sold are only his own furniture, furnishings and belongings, not acquired for purposes of resale, if such sale is held at such time

and in such manner as not to disturb any other resident of the Project and if such sale is held in full compliance with all applicable governmental ordinances, statutes, laws, rules, regulations and resolutions.

(l) Behavior which causes erosion or unreasonable amounts of dust or pollen.

16) Prohibited Conditions. The following shall be prohibited within the Project:

(a) Garage doors shall remain closed at all times except when entering and exiting the garage;

(b) Stand-alone flagpoles, clotheslines, or other outside facilities for drying of clothes;

(c) Detached garages;

(d) Excessive exterior lighting on any Lot, including lighting which causes unreasonable glare, unless necessary for public safety purposes on, or lighting of Private Amenities or Common Area. The Management Committee shall in its sole discretion determine whether any exterior lighting is excessive;

(e) Temporary or permanent storage buildings or sheds, whether prefabricated, metal or of any other construction whatsoever. No furniture, fixtures, firewood, appliances, machinery, equipment, or other goods or chattels which are not in active use shall be stored in any building or any Lot or Common Area in such a manner as to be Visible From Neighboring Property; provided, however, this restriction shall not apply to the property of the COMMUNITY ASSOCIATION, the Declarant, or any Builder (to the extent approved by the Declarant). Notwithstanding the foregoing, an Owner may be permitted to construct or place a gazebo, pergola, or similar structure within the rear yard of a Lot if in conformance with the Design Guidelines and all applicable zoning ordinances and otherwise approved by the Management Committee in writing; and

(f) Designs in landscaping softscape or hardscape that appear unnatural or cause a distraction or are otherwise limited or prohibited by the Design Guidelines; (e.g., words, initials, or images). All landscaping shall be maintained in accordance with the Community Standard.

Without limiting the generality of any of the foregoing provisions, the Management Committee shall be permitted to establish and enforce reasonable restrictions and guidelines with respect to noise levels originating from a Lot and with respect to the placement and use of noise making apparatus on any Lot. No activities shall be conducted upon or adjacent to any Lot or within improvements constructed thereon which are or might be unsafe or hazardous to any Person

or property. No open fires shall be lighted or permitted on the Property, except in a contained outdoor fireplace or barbecue unit while attended and in use for cooking purposes or within a safe and well designed interior fireplace. No odors shall be permitted to arise or emit from any Lot, which are offensive or detrimental to any neighboring property, as determined in the discretion of the Management Committee.

Normal construction activities and parking in connection with the building of improvements on a Lot shall not be considered a nuisance or otherwise prohibited by this Declaration, but Lots shall be kept in a neat and tidy condition during construction consistent with the Community Wide Standard. During construction periods, trash and debris shall not be permitted to accumulate and shall be removed or placed in appropriate trash containers on a daily basis. Supplies of brick, block, lumber and other building materials shall be piled only in such areas as may be approved by the Management Committee. In addition, any construction equipment and building materials stored or kept on any Lot during construction of improvements may be kept only in areas approved by the Management Committee, which may also require screening of the storage areas, The Declarant, for so long as it owns any property in the Project, and, thereafter, the Management Committee, in its sole discretion) shall have the right to determine the existence of any such nuisance.

17) Diseases and Insects. Owners shall not permit any thing or condition to exist upon any Lot that is likely to induce, breed, or harbor infectious plant diseases or noxious insects.

18) Overhead Encroachments. No tree, shrub, or planting of any kind on any Lot shall be allowed to overhang or otherwise encroach upon any sidewalk, street, pedestrian pathway, or other area from ground level to a height of eight feet (8') without prior approval of the Management Committee.

19) Swimming Pools. In addition to any requirements set forth by the Declarant or the Management Committee or in the Design Guidelines, no swimming pool, spa, pond, or other man-made body of water may be constructed, installed, or maintained on any Lot in violation of any applicable local government pool ordinances, including, but not limited to, the Utah County Swimming Pool and Protective Enclosure criteria. This shall include compliance with any requirements as to the construction and maintenance of walls or fences.

20) Parties Bound. The Project Documents shall be binding upon all Owners and residents, their family members, guests and invitees by virtue of their accepting a deed or other document of conveyance, or possession of, or entering upon a Lot or the Project.

21) Nuisance. It shall be the responsibility of each Owner and resident to prevent the creation or maintenance of a nuisance in, on or about the Project. For purposes of this section a "nuisance" includes but is not limited to the following:

- a) The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Lot or the Common Areas;
- b) The storage of any item, property or thing that will cause any Lot or the Common Area to appear to be in an unclean or untidy condition or that will be noxious to the senses;
- c) The storage of any substance, thing or material upon any Lot or in the Common Areas that will emit any foul, unpleasant or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Project;
- d) The creation or maintenance of any noxious or offensive condition or activity in or about any Lot or the Common Areas;
- e) Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other residents, their guests or invitees, particularly if the police or sheriff must be called to restore order;
- f) Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Project by other residents, their guests or invitees;
- g) Creating or allowing an unreasonable amount of noise in, on or about any Lot or the Common Area, especially after 10:00 p.m. and before 7:00 a.m.; and
- h) Creating or allowing an unreasonable amount of traffic in, on or about any Lot or the Common Area, especially after 10:00 p.m. and before 7:00 a.m.
- i) Violating U.C.A., Section 78-38-9 (1999).

22) Unsightly Work, Hobbies or Unkempt Condition. The pursuit of hobbies or other activities, including but not limited to the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Project.

23) Removing Garbage, Dust and Debris. No rubbish, trash, refuse, waste, dust, debris or garbage (hereinafter the "garbage") shall be allowed to accumulate so as to become a nuisance. During the week, all garbage shall be placed into plastic bags or other acceptable receptacles and deposited into designated garbage cans or dumpsters; individual garbage cans shall not be placed or stored so as to be visible from the street, other Dwelling Units or the Common Area except on garbage pick-up day; and on garbage pick-up days, garbage cans shall not be left out in the designated garbage can pick-up area for a period longer than twenty-four (24) consecutive hours.

- 24) Subdivision of a Lot. No Lot shall be subdivided or partitioned.
- 25) Firearms, Incendiary Devices and Graffiti. The use or discharge of firearms and incendiary devices, or the painting of graffiti, within the Project is prohibited. The term firearms includes but is not limited to all guns, pistols, handguns, rifles, automatic weapons, semi-automatic weapons, BB guns, pellet guns, sling shots, wrist-rockets, blow-dart guns, and other firearms of all types, regardless of size.
- 26) Temporary Structures. No Owner or resident shall place upon any part of the Project any temporary structures including but not limited to tents, trailers, or sheds, without the prior written consent of the Management Committee. Anything to the contrary notwithstanding and until the occurrence of the Events referred to herein, the Developer may install and use temporary structures in the development of the Project and marketing of the Lots or Units.
- 27) Parking Pads. No parking pads (e.g., cement, concrete, asphalt or of any other material) may be constructed for recreational, commercial or oversized vehicles of any kind.
- 28) Trees, Shrubs and Bushes; Maintenance of Proper Sight Distance at Intersections. The property located at or near driveways, entrances, exits, walkways, paths and street intersections or corners shall be landscaped so as to remove any obstructions and to permit safe sight. No fence, wall, hedge, shrub, bush, tree or monument, real or artificial, shall be planted or placed by any Owner or resident in, on or about the Common Areas without the prior written consent of the Management Committee. The Management Committee may alter or remove any objects planted or placed in violation of this subsection.
- 29) Energy Conservation Equipment. No solar energy collector panels, other energy conservation equipment or attendant hardware shall be constructed or installed on the Project without the prior written consent of the Committee.
- 30) Business Use. No commercial trade or business may be conducted in or from any Lot unless: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the residence; (b) the business activity conforms to all zoning requirements for the Project; (c) the business activity does not involve persons coming onto the Project who do not reside in the Project or door-to-door solicitation of residents of the Project; (d) the business activity is consistent with the residential character of the Project and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Project, as may be determined in the sole discretion of the Committee; (e) all of the necessary licenses and permits have been obtained from the Town of Eagle Mountain; and (f) the Management Committee has been notified in writing of the commercial, trade and/or business activity.
- 31) Garages; Storage and Parking of Motor Vehicles. Each Dwelling Unit constructed upon a Lot shall contain a garage. The driving, parking, standing and storing of motor

vehicles in, on or about the Project shall be subject to the following:

- a) Any traffic and parking rules and regulations as may be adopted by the Management Committee from time to time;
- b) Except for purposes of loading or unloading passengers or supplies (for a period of time not to exceed twenty-four (24) hours), no recreational, commercial or oversized vehicle parking is allowed anywhere in the Project (unless there is an RV Parking Area in the Project, although Declarant is not promising or obligated to do so hereby) at any time or for any reason. Recreational, commercial and oversized motor vehicles must be parked or stored in the designated RV Parking Area (if any) or outside of the Project;
- c) No overnight parking is allowed on the streets within the Project;
- d) No motor vehicle or trailer, including but not limited to any car, automobile, truck, van, minivan, or any other transportation device of any kind may be parked or stationed in such a manner so as to block access to any Lot, structure, building, or driveway, or so as to create an obstacle or potentially dangerous condition;
- e) During the evening and nighttime hours, Residents may only park their motor vehicles within their garages or driveways.
- f) No resident shall repair or restore any vehicle of any kind in, on or about any Lot or the Common Area, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.
- g) Since the garages must be used primarily for the parking and storage of vehicles, no garage may be altered in such a manner that the number of motor vehicles which may reasonably be parked therein after the alteration is less than the number of motor vehicles that could have been reasonably parked in the garage as originally designed and constructed. Garage doors shall remain closed except when the garage is in use.
- h) Excess, open and unassigned parking spaces or stalls, which are limited, are for the use and benefit of visitors, guests and invitees, and are not to be used by Lot Owners or Residents without the prior written consent of the Management Committee.
- i) By driving a motor vehicle into the Project, each vehicle owner and driver is deemed to have consented to be bound by and subject to this section.
- j) A motor vehicle parked in violation of this Declaration may be impounded or towed by the Management Committee, without further notice, and at the Owner's sole risk and expense.

32) Satellite Dishes, Antenna and Aerials. One satellite dish antennae having a diameter of more than 18" which is installed adjacent to any residence and is integrated with the residential structure and surrounding landscape, shall be permitted upon a Lot without any additional approval. A satellite dish larger than 18" in diameter, or any dish which is not to be installed adjacent to a residence and/or integrated with the residential structure and surrounding landscaping must be approved by the Management Committee prior to its installation. The location and screening of such dish shall be reasonably determined by the Management Committee so as not to impair reception and to ensure that the satellite dish is not visible, insofar as that is reasonably possible, from the street. Anything to the contrary notwithstanding, no satellite dish antennae having a diameter of more than 40", and all other microwave dish antennae, satellite dish antennae, exterior radio antennae, television antennae, or other electronic signal-receiving or transmitting equipment are permitted within the Project, unless such prohibition would constitute a violation of local, state or federal laws (as they may be amended from time to time) in which case the Management Committee may approve installations consistent with said laws, regulations and ordinances.

33) Windows and Window Coverings. No sun shades, tinted windows, aluminum foil, newspapers, reflective film coatings, or any other similar materials may be used to cover the exterior windows of any Dwelling Unit or garage. All windows and window panes in the Project shall be harmonious, and comparable in size, design and quality, so as not to detract from uniformity in appearance and construction.

34) Pets. No pets, animals, livestock or poultry of any kind shall be bred in, on or about the Project. Up to two (2) domestic pets per unit are allowed; provided, however, pets must be properly licensed and registered (if required) with the appropriate governmental agencies, owners must pay the pet deposit to the Management Committee, obtain a certificate of registration from the COMMUNITY ASSOCIATION, and abide by all pet rules and regulations adopted by the Management Committee from time to time and local ordinances. Pets may not create a nuisance. The following acts of an animal may constitute a nuisance: (a) it causes damage to the property of anyone other than its owner; (b) it causes unreasonable fouling of the air by odors; (c) it causes unsanitary conditions; (d) it defecates on any common area and the feces are not immediately cleaned up by the responsible party; (e) it barks, whines or howls, or makes other disturbing noises in an excessive, continuous or untimely fashion; (f) it molests or harasses passersby by lunging at them or chasing passing vehicles; (g) it attacks people or other domestic animals; (h) it otherwise acts so as to bother, annoy or disturb other reasonable residents or interferes with their right to the peaceful and quiet enjoyment of their property; or (i) by virtue of the number of pets maintained, they are offensive or dangerous to the health, welfare or safety of other residents. Pets in the common area must be in a cage or on a leash and under the control of a responsible person.

35) Insurance. Nothing shall be done or kept in, on or about any Lot or the Common Area which may result in the cancellation of the insurance on the Property or an increase in the rate of the insurance on the Project over what the Management Committee, but for such activity, would pay.

36) Laws. Nothing shall be done or kept in, on or about any Lot or Common Area, or any part thereof, which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.

37) Damage or Waste. No damage to, or waste of, the Common Area shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Management Committee and the other Owners harmless against all loss resulting from any such damage or waste caused by that Owner or an invitee; provided, however, that any invitee of the Declarant shall not under any circumstances be deemed to be an invitee or any other Owner.

38) Structural Alterations. No structural alterations to the Common Area or Facilities are allowed without the prior written consent of the Management Committee.

39) BBQ, Patio Table and Chairs. Outdoor table(s) and chair(s) and BBQ grill(s) or equipment are allowed outside, provided they are located exclusively within the confines of the Dwelling Unit's cement pad or patio and are maintained in a clean, tidy and neat manner. Each Lot Owner or resident shall use his best efforts to keep such personal property so it is not visible from the street, the Common Area or another Lot. Bicycles, tricycles, motorcycles, household furniture and furnishings, equipment, machinery, tools, supplies, boxes, storage containers or other items of personal property may not be stored in, on or about the cement pad, patio or deck area, in the Limited Common Area, or in any manner so as to be visible from the Common Area, street or another Lot.

6. Leases. No Owner shall be permitted to lease his Unit for short term, transient, hotel, seasonal or corporate purposes, which shall be deemed to be any lease with an initial term of less than twelve (12) months unless otherwise determined by the Management Committee. Daily or weekly rentals are prohibited. No Owner may lease individual rooms to separate persons or less than his entire Dwelling Unit. Other than as stated in this Section, there is no restriction on the right of any Owner to lease or otherwise grant occupancy rights to a Unit.

7. Easements: Drainage, Support, Maintenance and Repair. The following easements and rights of way are hereby RESERVED for and GRANTED to the Town of Eagle Mountain and the Association:

a) Easements of Encroachment. Declarant reserves unto itself, so long as it owns any property in the Project, easements of encroachment, and for maintenance and use of any permitted encroachment, between each Lot and any adjacent Common Area and between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with this Declaration) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of the Declarant.

b) Easements for Utilities, Etc. Declarant reserves unto itself so long as it owns any property in the Project, and grants to the COMMUNITY ASSOCIATION an easement for the purpose of access and maintenance upon, across, over, and under all of the Property to the extent reasonably necessary to install, replace, repair, and maintain cable television systems, master television antenna systems, security and similar systems, roads, walkways, bicycle pathways, trails, lakes, ponds, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewer, meter boxes, telephone, gas, and electricity. The Declarant and/or the COMMUNITY ASSOCIATION may assign these rights to any local utility supplier, cable company, security company or other company providing a service or utility to the Project subject to the limitations herein. This easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any existing Dwelling Unit on a Lot, and any damage to a Lot resulting from the exercise of this easement shall promptly be repaired by, and at the expense of; the Person exercising the easement. Declarant specifically grants to the local utility suppliers easements across the Project for ingress, egress, installation, reading, replacing, repairing, and maintaining utility meters and boxes. However, the exercise of this easement shall not extend to permitting entry into the Dwelling Unit on any Lot, nor shall any utilities be installed or relocated on the Property, except as approved by the Management Committee or Declarant. The exercise of this easement by any party other than the COMMUNITY ASSOCIATION shall be subject to prior notice to the COMMUNITY ASSOCIATION, which shall be permitted to coordinate and supervise access to the Project by the grantee of the easement. The exercise of the easement also shall not unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

c) Easements to Serve Additional Property. The Declarant hereby reserves for itself and its duly authorized agents, representatives, employees, successors, assigns, licensees, and Mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of Declarant's property, whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property. Declarant agrees that it and its assigns shall be responsible for any damage caused to the Common Area as a result of vehicular traffic connected with development of such property. Declarant further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof is not made subject to this Declaration, the Declarant, shall enter into a reasonable agreement with the Association to share the cost of maintenance of any access roadway serving such property.

d) Easements for Cross-Drainage. Every Lot and the Common Area shall be burdened with easements for natural drainage of storm water runoff from other portions of the Project; provided, no Person shall alter the natural drainage on any Lot to increase materially the drainage of storm water onto adjacent portions of the Project without the consent of the Owner(s) of the affected property, the Management Committee, and the Declarant as long as it owns any property in the Project.

e) Risk of Entry. The COMMUNITY ASSOCIATION shall have the right, but not the obligation, and a perpetual easement is hereby granted to the COMMUNITY ASSOCIATION, to enter all portions of the Project, including each Lot and Dwelling Unit, for emergency, security, and safety reasons. Such right may be exercised by the authorized agents of the Association, its Management Committee, officers, or committees, and by all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in emergencies, entry into a Dwelling Unit shall be only during reasonable hours and after notice to and permission from the Owner thereof. This easement includes the right to enter any Lot or Dwelling Unit to cure any condition which increases the risk of fire or other hazard if an Owner fails or refuses to cure the condition within a reasonable time after request by the Management Committee, but does not authorize entry into any Dwelling Unit without permission of the Owner, except by emergency personnel acting in their official capacities.

f) Easements for Maintenance and Enforcement. Authorized agents of the COMMUNITY ASSOCIATION shall have the right, and a perpetual easement is hereby granted to the Association, to enter all portions of the Project, including each Lot or Dwelling Unit to (a) perform its maintenance responsibilities, and (a) make inspections to ensure compliance with this Declaration, any Supplemental Declaration, By-Laws, and rules. Except in emergencies, entry into a Dwelling Unit shall be only during reasonable hours and after notice to and permission from the Owner. This easement shall be exercised with a minimum of interference to the quiet enjoyment to Owners' property, and any damage shall be repaired by the COMMUNITY ASSOCIATION at its expense. The COMMUNITY ASSOCIATION also may enter a Lot to abate or remove, using such measures as may be reasonably necessary, any structure, thing or condition which violates the Declaration, any Supplemental Declaration, the By-Laws, the Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION, or the rules. All costs incurred, including reasonable attorneys' fees, shall be assessed against the violator as a Benefitted Assessment.

g) Rights to Surface Water, Groundwater, Stormwater Runoff, Effluent, and Water Stored Underground. Declarant hereby reserves for itself and its designees all rights to surface water which are appurtenant to the Project. Declarant hereby reserves for itself and its designees all rights to groundwater, stormwater runoff, effluent, and water stored in all underground storage facilities located or produced within the Project. Each Owner agrees, by acceptance of a deed to a Lot, that Declarant shall retain all such rights. Such rights shall include an easement over the Project for access, and for installation and maintenance of facilities and equipment to capture and transport such water, runoff, and effluent. This Section may not be amended without the consent of the Declarant and the reservations made and rights created pursuant to this Section shall survive the termination of this Declaration. Neither the Declarant nor any Owner shall be deemed by this reservation, or the consolidation of water rights to be made pursuant to this reservation, to abandon any right to water which is appurtenant to or which may be exercised in connection with the Project.

h) Easements for Lake and Pond Maintenance, Drainage and Flood Water. Declarant reserves for itself and the COMMUNITY ASSOCIATION, and their designees, the nonexclusive right and easement, but not the obligation, to enter upon the lakes, ponds, streams,

and wetlands located within the Area of Common Responsibility to (1) construct, maintain, and repair pumps in order to provide water for the irrigation of any of the Area of Common Responsibility; (2) construct, maintain, and repair any bulkhead, wall, dam, or other structure retaining water; and (3) remove trash and other debris therefrom and fulfill their maintenance responsibilities as provided in this Declaration. Declarant, the Association, and their designees shall have an access easement over and across any of the Project abutting or containing any portion of any of the lakes, ponds, streams, or wetlands to the extent reasonably necessary to exercise their rights under this Section. There is further reserved herein for the benefit of Declarant, the COMMUNITY ASSOCIATION, and their designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Area and Lots (but not the Dwelling Units thereon) adjacent to or within one hundred feet of lake beds, ponds, streams and wetlands within the Project, in order to (a) temporarily flood and back water upon and maintain water over such portions of the Project; (b) fill, drain, dredge, deepen, clean, fertilize, dye, and generally maintain the lakes, ponds, streams, and wetlands within the Area of Common Responsibility subject to the approval of all appropriate regulatory bodies; (c) maintain and landscape the slopes and banks pertaining to such lakes, ponds, streams, and wetlands; and (d) enter upon and across such portions of the Project for the purpose of exercising their rights under this Section. All Persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from the intentional exercise of the rights granted under such easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to heavy rainfall or other natural occurrences. In addition, the Declarant and builder reserves for themselves and its successors and assigns:

1) A non-exclusive easement over, across, through, above and under the Lots and the Common Area for the operation, maintenance and regulation of the Common Area, amenities and facilities; and

2) A reciprocal easement on, over, under, through and across all Lots and Common Area for the drainage of surface waters on, over, under, through and across the Project. The Declarant shall establish a subdrain and storm drainage system designed to serve the entire Project (the "Master Subdrain and Storm Drain System"). No Lot Owner shall interfere with the Master Subdrain and Storm Drain System established by the Declarant, or its successors or assigns. Each Lot Owner shall be responsible to develop his Lot in a manner consistent with the Master Subdrain and Storm Drain System, and so as not to detract therefrom or interfere therewith, or the Established Drainage Pattern on any other Lot in the Project. No changes to the Established Drainage Pattern on any Lot shall be permitted without the prior written consent of the Management Committee. For purposes of this Section, the term "Established Drainage Pattern" is defined as the approved drainage pattern, facilities and improvements in existence at the time such Lot is conveyed to a home purchaser by the Declarant, its successor or assign. The cost of all improvements, maintenance, repairs and replacements of the subdrain and storm drainage system located in the Common Area shall be the responsibility of the Association. If the COMMUNITY ASSOCIATION or the Lot Owners fail to properly manage, maintain or replace the subdrain and storm drainage system, the Town of Eagle Mountain or its successor in interest shall have the right, but not the obligation to maintain the systems, and to charge the cost thereby incurred to the

COMMUNITY ASSOCIATION. The COMMUNITY ASSOCIATION shall not have the authority to change, by vote, alienation, alteration, transfer, sale, or otherwise, the use of the currently existing areas and structures designed to control storm water runoff unless the consent of the Town of Eagle Mountain has first been obtained in writing. The Town of Eagle Mountain is hereby made a party to the covenants established by this Declaration for the sole purpose of protecting and preserving the use of the common storm drainage system and structures that serve the Project. The Town of Eagle Mountain shall not be a member of the Association and shall have no vote in the management, operation or regulations of its affairs. The Town of Eagle Mountain is hereby granted the right to enforce these restrictive covenants.

8. Liability of Owners and Residents For Damages. Any Owner or resident shall be liable to the COMMUNITY ASSOCIATION or other Owners or Residents for damages to person or property in the Community caused by his negligence.

9. Encroachments. In the event that any portion of the Common Area, a Lot, Building or Dwelling Unit encroaches or comes to encroach upon other Common Area or another Lot, Building or Dwelling Unit as a result of construction, reconstruction, repair, shifting, settling, or movement, an easement for such encroachment is created hereby and shall exist so long as such encroachment exists.

10. Management Committee. The COMMUNITY ASSOCIATION shall be managed by the Management Committee.

11. Status and General Authority of Committee. Any instrument executed by the Management Committee that recites facts which, if true, would establish the Committee's power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument. The COMMUNITY ASSOCIATION shall, in connection with its exercise of any of the powers delineated below, constitute a legal entity capable of dealing in its Committee name. The Management Committee shall have, and is hereby granted, the authority and powers set forth in this Declaration, the COMMUNITY DECLARATION and BYLAWS.

12. Classes of Membership and Voting Allocations. The SADDLEBACK AT SMITH RANCH SUBDIVISION shall have two (2) classes of voting membership -- Class A and Class B, described more particularly as follows:

a) Class A. Class A Members shall be all Owners with the exception of the Class B Members, if any. Class A Members shall be entitled to vote on all issues before the COMMUNITY ASSOCIATION, subject to the following:

- (1) One Vote. Each Lot shall have one (1) vote;

(2) Subject To Assessment. No vote shall be cast or counted for any Lot not subject to assessment;

(3) Multiple Owners. When more than one (1) person or entity holds such interest in a Lot, the vote for such Lot shall be exercised as those persons or entities themselves determine and advise the Secretary of the COMMUNITY ASSOCIATION prior to any meeting. In the absence of such advice, the vote of the Lot shall be suspended in the event more than one (1) person or entity seeks to exercise it.

(4) Leased Lot. Any Owner of a Lot which has been leased may, in the lease or other written instrument, assign the voting right appurtenant to that Lot to the lessee, provided that a copy of such instrument is furnished to the Secretary of the COMMUNITY ASSOCIATION at least three (3) days prior to any meeting.

b) Class B. Class B Member shall be the Declarant and any successor of Declarant who takes title for the purpose of development and sale of Lots, and who is designated as such in a recorded instrument executed by Declarant. The Class B Member shall originally be entitled to twenty-five (25) votes per Lot owned. The Class B membership and the Class B Control Period shall terminate, and Class B membership shall convert to Class A membership upon the termination of the Period of Declarant's Control.

From and after the termination of the Period of Declarant's Control, the Class B Member shall be deemed to be a Class A Member entitled to one (1) vote for each Lot owned. At such time, the Declarant shall call a meeting, in the manner described in the By Laws of the COMMUNITY ASSOCIATION for special meetings, to advise the membership of the termination of Class B status and, if it has not already occurred, to schedule transition of the operation and management of the entire Project to the COMMUNITY ASSOCIATION.

13. Lists of Lot Owners, Eligible Mortgagees, and Eligible Insurers or Guarantors. The Committee shall maintain up-to-date records showing: (a) the name of each person who is an Owner, the address of such person, and the Lot which is owned by him or her; (b) the name of each person or entity who is an Eligible Mortgagee, the address of such person or entity, and the Lot which is encumbered by the Mortgage held by such person or entity; and (c) the name of each person or entity who is an Eligible Insurer or Guarantor, the address of such person or entity, and the Lot which is encumbered by the Mortgage insured or guaranteed by such person or entity. In the event of any transfer of a fee or undivided fee interest in a Lot, either the transferor or transferee shall furnish the Committee with evidence establishing that the transfer has occurred and that the Deed or other instrument accomplishing the transfer is of record in the office of the County Recorder of Utah County, Utah. The Committee may for all purposes act and rely on the information concerning Lot ownership in its records or, at its option, the records of the county recorder. The address of any Owner shall be deemed to be the address of the Lot owned by such person unless the Committee is otherwise advised in writing.

14. Operation, Maintenance and Alterations. The Lots and Common Area shall be maintained by the Lot Owners and the COMMUNITY ASSOCIATION as follows:

a) Area of Common Responsibility. The COMMUNITY ASSOCIATION shall maintain, repair and replace, as needed from time to time, the following:

- 1) All Common Areas and Facilities as well as all improvements constructed or installed thereon;
- 2) All perimeter fences.
- 3) The entryway or ways into the Project as well as all undedicated streets, sidewalks, curbs, gutters and street lighting;
- 4) All central or common utility systems for power, light, water, sewer, garbage removal, central park and storm water detention area; and
- 5) All park strips and pocket parks.

b) Area of Personal Responsibility. Each Owner shall maintain the following:

- 1) His Lot, Garage and Dwelling Unit, including without limitation the foundation, footings, columns, girders, beams, supports, main walls, roof, exterior surfaces, doors, windows, driveway, sidewalks, steps, porches, landings and entryways;
- 2) His utility services, power, light, gas, hot and cold water, heating, refrigeration and air conditioning systems;
- 3) All interior and exterior fixtures, furnishings, windows, window frames, sills, doors, patios, balconies and decks, garage doors and garage door systems located in his Lot or Dwelling Unit; provided, however, the replacement of the foregoing and related items, visible from outside the Dwelling Unit must be approved by the Management Committee in order to protect the integrity of the initial design and construction of the Project, and to maintain the uniformity of appearance and quality of construction established by Declarant;
- 4) All fencing on his Lot;
- 5) All landscaping on his Lot, including without limitation the sprinkling system, sprinkler controls, heads and water distribution lines, trees, plants, flower and garden beds within this area; provided, however, all items (except for trees) must remain below the fence line, unless a written variance is obtained from the Management Committee; and
- 6) All of the improvements constructed or installed in, on, under, across, over or above his Lot.

c) Snow and Ice Accumulations. The Town of Eagle Mountain is responsible to remove the snow and ice accumulations from all dedicated streets; The COMMUNITY ASSOCIATION is responsible to remove the snow and ice accumulations from the Common Area, including without limitation all private streets, drives, alleys and ways, the park strips, and common sidewalks; and the Owners are responsible to remove the snow and ice accumulations from their Lots.

d) Garbage Removal. The COMMUNITY ASSOCIATION shall arrange for garbage pick up with the Town of Eagle Mountain or, in the alternative, contract privately for garbage removal. Each Owner shall make his garbage can or receptacle available for pick up on the designated day each week; however, trash receptacles may not be left so as to be visible from any street or drive for a period in excess of twenty-four (24) hours, and when not placed on the street or drive for pick up garbage cans or receptacles shall be located in a place not visible from the street, drive, common area or another Dwelling Unit.

e) Standard of Care - Generally. The Property shall be maintained in a usable, clean, functional, safe, healthy, sanitary, attractive, and good condition, consistent with Community Standards.

f) Standard of Care - Landscaping. All landscaping in the Project shall be maintained and cared for in a manner consistent with Community Standards and the quality of design and construction originally established by Declarant. Specific guidelines and restrictions on landscaping may be established by the Management Committee from time to time. All landscaping shall be maintained in a neat and orderly condition. Any weeds or diseased or dead lawn, trees, ground cover or shrubbery shall be removed and replaced. All lawn areas shall be neatly mowed and trees, shrubs and bushes shall be properly pruned and trimmed. All landscaping shall be tasteful in the opinion of the Management Committee, so as not to affect adversely the value or use of any other Lot, or to detract from the uniform design and appearance of the Project.

g) Neglect. If the Management Committee determines that any Owner has failed or refused to discharge properly his obligation with regard to the maintenance, repair, or replacement of items for which he is responsible hereunder; or that the need for maintenance, repair, or replacement of the Common Area is caused through the willful or negligent act of any Owner, his family, guests, lessees, or invitees, and it is not covered or paid by insurance, in whole or in part, then the COMMUNITY ASSOCIATION may, but is not obligated to, provide such maintenance, repair or replacement at the Owner's sole cost and expense, subject to the following:

(1) Assessment. Such costs as are incurred by the COMMUNITY ASSOCIATION in the performance of an item included in the Area of Personal Responsibility shall be added to and become a part of the assessment to which such Owner and Lot is subject, and shall be secured by a lien against his Lot regardless of whether a notice of lien is filed.

(2) Notice of Intent to Repair. Except in an emergency situation, the COMMUNITY ASSOCIATION shall give the Owner written notice of the COMMUNITY

ASSOCIATION'S intent to provide necessary maintenance, repair, or replacement at Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Management Committee. The Owner shall have ten (10) days after receipt of notice within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten (10) days.

(3) Emergency Situation. If the Management Committee determines that an emergency exists, then notice and the opportunity to cure the default is not necessary.

(4) Optional Repairs. The COMMUNITY ASSOCIATION may, but is not obligated to, provide any such maintenance, repair, or replacement in the manner described above.

(5) Right of Entry. The COMMUNITY ASSOCIATION or its agents or employees shall have a right to entry upon or into any Lot or Common Area as necessary to perform such work and shall not be liable for trespass for such entry or work.

h) Changes to Areas of Personal or Common Responsibility. The Management Committee may, in its sole discretion, add items to or subtract items from the Areas of Personal or Common Responsibility upon at least thirty (30) days prior written notice to the Lot Owners.

i) Alterations to the Common Area. No Owner or Resident may at any time modify the drainage patterns or systems, landscaping, or make any structural alterations, modifications, changes or improvements to the Common Area or Facilities, including but not limited to the construction or installation of any additions, the extension or enclosure of any existing structures (e.g., fencing, decks, patios, walkways or sheds, etc.) not shown on the approved plans and specifications, without the prior written consent of the Management Committee.

15. Common Expenses. Each Owner, upon receipt of a deed to a Lot, shall pay his portion of the Common Expenses and Assessments as determined and allocated by the COMMUNITY ASSOCIATION in accordance with the COMMUNITY ASSOCIATION.

a) Personal Obligation of Owner. Owners are liable to pay all Assessments assessed, accruing interest, late fees and collection costs, including attorneys fees. Provided, however, no first mortgagee or beneficiary under a first deed of trust (but not the Seller under an executory contract of sale such as a uniform real estate contract, land sales contract, or other similar instrument), who obtains title to a Lot pursuant to the remedies provided in the mortgage or trust deed shall be liable for unpaid Assessments which accrued prior to the acquisition of title. For purposes of this Section, the term "Owner" shall mean and refer jointly and severally to: (1) the Owner of both the legal and equitable interest in any Lot, (2) the owner of record in the offices of the County Recorder of Salt Lake County, Utah, and (3) both the Buyer and Seller under any

executory sales contract or other similar instrument.

b) Statement of Assessments Due. Upon written request, the Committee shall furnish to any Owner a statement of Assessments due, if any, on his Lot. Failure to provide the certificate within ten (10) days after a written request, shall be deemed conclusive evidence that all Assessments are paid current. The COMMUNITY ASSOCIATION may require the advance payment of a processing charge not to exceed \$15.00 for the issuance of such certificate.

c) Superiority of Assessments. All Assessments and liens created to secure the obligation to pay Assessments are superior to any homestead exemptions to which an Owner may be entitled.

d) Suspension of Right to Vote for Non-Payment. At the discretion of the Committee, the right of an Owner to vote on issues concerning the COMMUNITY ASSOCIATION may be suspended if the Owner is delinquent in the payment of his Assessments, and has failed to cure or make satisfactory arrangements to cure the default after reasonable notice of at least ten (10) days.

16. Special Assessments. In addition to the other Assessments authorized herein, the COMMUNITY ASSOCIATION may levy special assessments in accordance with the COMMUNITY DECLARATION.

17. Benefit Assessments. If the Unit Owner has the choice to accept or reject the benefit, the Management Committee shall also have the power specifically to assess the Owners in a particular area pursuant to this Section as, in its discretion, it shall deem necessary or appropriate, as follows:

a) Benefit only To Specific Lot. If the expense benefits less than all of the Lots, then those Lots benefitted may be specifically assessed, and the benefit assessment shall be equitably apportioned among those Lots according to the benefit received.

b) Unequal or Disproportionate Benefit. If the expense benefits all Lots, but does not provide an equal benefit to all Lots, then all Lots shall be specifically assessed, but the benefit assessment shall be equitably apportioned among all Lots according to the benefit received.

Failure of the Committee to exercise its authority under this Section shall not be grounds for any action against the COMMUNITY ASSOCIATION or the Committee and shall not constitute a waiver of the Committee's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Committee has not previously exercised its authority under this Section.

18. Individual Assessments. Individual Assessments shall be levied by the Committee against a Lot and its Owner to charge, impose, pay, compensate and/or reimburse the COMMUNITY ASSOCIATION for: (a) Fines levied and costs incurred in enforcing the Project

Documents; (b) Costs associated with the maintenance, repair or replacement of Common Area damaged by an Owner or resident or which falls within the Area of Personal Responsibility as defined above; (c) Any other charge, fee, due, expense, or cost designated as an Individual Assessment in the Project Documents; and (d) Additional charges as provided for in this Declaration.

19. Collection of Assessments. In addition to the remedies set forth in the COMMUNITY DECLARATION, the following restrictions apply to the collection of Assessments:

a) Time is of the Essence. Time is of the essence and all Assessments shall be paid promptly when due.

b) Delinquent Assessments. Any Assessments which are not paid when due are delinquent and a lien against the Lot affected shall attach automatically, regardless of whether a notice of lien is recorded.

c) Late Fees and Default Interest. Any Assessments delinquent for a period of more than ten (10) days shall incur a late charge of twenty five dollars (\$25.00) or five percent (5%) of the delinquent amount, whichever is greater. Default interest at the rate of one and ½ percent (1.5%) per month shall accrue on all delinquent accounts.

d) Notice of Lien. Each Assessment is a debt of the Owner at the time the Assessment is made and is collectible as such. If any Owner fails or refuses to make any payment of the debt when due, that amount constitutes a lien on the interest of the Owner in the Property, and upon the recording of notice of lien by the manager or Management Committee it is a lien upon the Owner's interest in the Property prior to all other liens and encumbrances, recorded or unrecorded, except: (1) tax and special assessment liens on the Unit in favor of any assessing unit or special improvement district; and (2) encumbrances on the interest of the Owner recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

e) Foreclosure of Lien and/or Collection Action. If any Assessments remain unpaid, the COMMUNITY ASSOCIATION may, as determined by the Committee, institute suit to collect the amounts due and/or to foreclose the lien.

f) Personal Obligation. Each Owner, by acceptance of a deed or as a party to any other type of conveyance, vests in the COMMUNITY ASSOCIATION or its agents the right and power to bring all actions against him or her personally for the collection of the charges as a debt or to foreclose the lien in the same manner as mechanics liens, mortgages, trust deeds or encumbrances may be foreclosed.

g) No Waiver. No Owner may waive or otherwise exempt himself or herself from liability for the Assessments provided for herein, including but not limited to the non-use of

Common Areas or the abandonment of his Lot.

h) Duty to Pay Independent. No reduction or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the COMMUNITY ASSOCIATION or Committee to take some action or perform some function required to be taken or performed by the COMMUNITY ASSOCIATION or committee under this Declaration or the By Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the COMMUNITY ASSOCIATION, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay Assessments being a separate and independent covenant on the part of each Owner.

i) Application of Payments. All payments shall be applied as follows: Default Interest, Late Fees, Additional Charges, Delinquent Assessments and Current Assessments.

j) Foreclosure of Lien as Mortgage or Trust Deed. The lien for nonpayment of Assessments may be enforced by sale or foreclosure of the Owner's interest therein by the Committee. The sale or foreclosure shall be conducted in the same manner as foreclosures in deeds of trust or mortgages or in any other manner permitted by law. In any foreclosure or sale, the Owner shall pay the costs and expenses of such proceedings, including but not limited to the cost of a foreclosure report, reasonable attorney's fees, and a reasonable rental for the Lot during the pendency of the foreclosure action. The COMMUNITY ASSOCIATION in the foreclosure action may require the appointment of a receiver to collect the rental without regard to the value of the mortgage security. The Committee may bid for the Lot at foreclosure or other sale and hold, lease, mortgage, or convey the same.

k) Appointment of Trustee. If the Committee elects to foreclose the lien in the same manner as foreclosures in deeds of trust, then the Owner by accepting a deed to the Lot hereby irrevocably appoints the attorney of the COMMUNITY ASSOCIATION, provided he is a member of the Utah State Bar, as Trustee, and hereby confers upon said Trustee the power of sale set forth with particularity in Utah Code Annotated, Section 57-1-23 (1953), as amended. In addition, Owner hereby transfers in trust to said Trustee all of his right, title and interest in and to the real property for the purpose of securing his performance of the obligations set forth herein.

l) Attorney in Fact. Each Owner by accepting a deed or other document of conveyance to a Lot hereby irrevocably appoints the COMMUNITY ASSOCIATION as his attorney in fact to collect rent from any person renting his Lot, if the Lot is rented and Owner is delinquent in the payment of his Assessments. Rent due shall be paid directly to the COMMUNITY ASSOCIATION, upon written demand, until such time as the Owner's Assessments are current; and the Owner shall credit the Renter, against rent due, for the amount of money paid to the COMMUNITY ASSOCIATION.

20. Liability of Management Committee. The COMMUNITY ASSOCIATION shall indemnify every officer and member of the Committee against any and all expenses, including but

not limited to attorney's Assessments reasonably incurred by or imposed upon any officer or member of the Committee in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Committee) to which he or she may be a party by reason of being or having been an officer or member of the Committee. The officers and members of the Committee shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and members of the Committee shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the COMMUNITY ASSOCIATION (except to the extent that such officers or members of the Committee may also be Members of the COMMUNITY ASSOCIATION), and the COMMUNITY ASSOCIATION shall indemnify and forever hold each such officer and member of the Committee free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall be exclusive of any other rights to which any officer or member of the Committee, or former officer or member of the Committee, may be entitled. The COMMUNITY ASSOCIATION shall, as a common expense, maintain adequate general liability and officer's and director's insurance coverage to fund this obligation, if such insurance is reasonably available.

21. Insurance. The Management Committee shall at all times purchase, maintain in force, and pay the premiums for, if reasonably available, insurance on the Common Areas as required by the COMMUNITY DECLARATION. Each Owner shall maintain adequate liability and property insurance on and for his Lot.

22. Destruction, Condemnation, and Obsolescence. The following provisions shall apply with respect to the destruction, condemnation, or obsolescence of the Project.

a) Definitions. Each of the following terms shall have the meaning indicated:

(1) "Substantial Destruction" shall exist whenever, as a result of any damage or destruction to the Project or any part thereof, the excess of the estimated cost of restoration over the funds available is Twenty five percent (25%) percent or more of the estimated restored value of the Project.

(2) "Partial Destruction" shall mean any other damage or destruction to the Project or any part thereof.

(3) "Substantial Condemnation" shall exist whenever a complete taking of the Project or a taking of part of the Project has occurred under eminent domain or by grant or conveyance in lieu of condemnation, and the excess of the estimated cost of restoration over the funds available is Twenty five (25%) percent or more of the estimated restored value of the Project.

(4) "Partial Condemnation" shall mean any other such taken by eminent domain or grant or conveyance in lieu thereof.

(5) "Substantial Obsolescence" shall exist whenever the Project or any part thereof has reached such a state of obsolescence or disrepair that the excess of the estimated cost of restoration over the funds available is Twenty five percent (25%) percent or more of the estimated restored value of the Project.

(6) "Partial Obsolescence" shall mean any state of obsolescence or disrepair which does not constitute Substantial Obsolescence.

(7) "Restored Value" shall mean the fair market value of the Project after Restoration as determined by an MAI or other qualified appraisal.

(8) "Estimated Cost of Restoration" shall mean the estimated costs of restoring the Project to its former condition.

(9) "Available Funds" shall mean any proceeds of insurance, condemnation awards, payments in lieu of condemnation, and any uncommitted funds of the Management Committee or COMMUNITY ASSOCIATION. Available Funds shall not include that portion of insurance proceeds legally required to be paid to any party other than the COMMUNITY ASSOCIATION, including a mortgagee, or that portion of any condemnation award or payment in lieu of condemnation payable to the Owner or Mortgagee for the condemnation or taking of the Lot in which they are interested.

b) Determination by Committee. Upon the occurrence of any damage or destruction to the Project or any part thereof, or upon a complete or partial taking of the Project under eminent domain or by grant or conveyance in lieu thereof, the Committee shall make a determination as to whether the excess of Estimated Costs of Restoration over Available Funds is twenty-five percent (25%) or more of the estimated Restored Value of the Project. In addition, the Committee shall, from time to time, review the condition of the Project to determine whether Substantial Obsolescence exists. In making such determinations the Committee may retain and rely upon one or more qualified appraisers or other professionals.

c) Restoration of the Project. Restoration of the Project shall be undertaken by the Committee promptly without a vote of the Owners in the event of Partial Destruction, Partial Condemnation, or Partial Obsolescence and shall also be undertaken in the event of Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence unless the failure to make Restoration is consented to by Owners collectively holding at least sixty-seven percent of the Project's undivided Ownership interest and is further consented to by Eligible Mortgagees holding Mortgages on Lots which have appurtenant at least fifty-one (51%) percent of the undivided ownership interest in the Common Areas and Facilities which is then subject to Mortgages held by Eligible Mortgagees.

d) Notices of Destruction or Obsolescence. Within thirty (30) days after the Committee has determined that Substantial Destruction, Substantial Condemnation, or Substantial

Obsolescence exists, it shall send to each Owner and Eligible Mortgagee a written description of the destruction, condemnation, or state of obsolescence involved, shall take appropriate steps to ascertain the preferences of the Eligible Mortgagees concerning Restoration, and shall, with or without a meeting of the Owners (but in any event in accordance with the applicable provisions of this Declaration), take appropriate steps to determine the preferences of the Owners regarding Restoration.

e) Excess Insurance. If the insurance proceeds condemnation awards, or payments in lieu of condemnation actually received by the Committee or COMMUNITY ASSOCIATION exceed the cost of Restoration when Restoration is undertaken, then the excess funds shall be placed in the Capital Improvement Reserve Account and retained by and for the benefit of the COMMUNITY ASSOCIATION. This covenant is also for the benefit of the Association and any Mortgagee, and, therefore, may also be enforced by them. Payment to any Owner whose Lot is the subject of a Mortgage shall be made jointly to such Owner and the interested Mortgagee.

f) Inadequate Insurance. In the event the cost of Restoration exceeds Available Funds, all of the Lots shall be assessed for the deficiency on the basis of their respective percentages of undivided Ownership interest in the Common Areas.

g) Reallocation in Event of Partial Restoration. In the event that all or any portion of one or more Lots will not be the subject of Restoration (even though the Project will continue as a planned unit development) or is taken in a condemnation proceeding or pursuant to any agreement in lieu thereof, the undivided Ownership interest in the Common Areas and Facilities shall be immediately reallocated to the remaining Lots.

h) Sale of Project. Unless Restoration is accomplished as set forth above, the Project shall be sold in the event of Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence. In the event of such sale, ownership under this Declaration and the Plat Map shall terminate and the proceeds of sale and any Available Funds shall be distributed by the Committee to the Owners in proportion to their respective undivided interests in the Common Areas. Payment to any Owner whose Lot is then the subject of a Mortgage shall be made jointly to such Owner and the interested Mortgagee.

i) Authority of Committee to Represent Owners in Condemnation or to Restore or Sell. The Committee, as attorney-in-fact for each Owner, shall represent all of the Owners and the COMMUNITY ASSOCIATION in any condemnation proceeding or in negotiations, settlements, and agreements with the condemning authority for the acquisition of all or any part of the Common Areas and Facilities.

j) Settlement Proceeds. The award in any condemnation proceeding and the proceeds of any settlement related thereto shall be payable to the COMMUNITY ASSOCIATION for the use and benefit of the Owners and their mortgagees as their interests may appear.

k) Restoration Power. The Committee, as attorney-in-fact for each Owner, shall have and is hereby granted full power and authority to restore or to sell the Project and each Lot therein whenever Restoration or sale, as the case may be, is undertaken as hereinabove provided.

l) Right of Contract. Such authority shall include the right and power to enter into any contracts, deeds or other instruments which may be necessary or appropriate for Restoration or sale, as the case may be.

23. Consent in Lieu of Vote. In any case in which this Declaration requires the vote of an Owner for authorization or approval of an act or a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such proposed act or transaction from Owners who collectively hold the required percentages, subject to the following conditions:

a) Ninety-Day Limit. All necessary consents must be obtained prior to the expiration of ninety (90) days from the time the first written consent is obtained; and

b) Change In Ownership. Any change in Ownership of a Lot which occurs after consent has been obtained from the Owner having an interest therein shall not be considered or taken into account for any purpose.

24. Mortgagee Protection. The lien or claim against a Lot for unpaid Assessments levied by the Management Committee or by the COMMUNITY ASSOCIATION pursuant to this Declaration or the Act shall be subordinate to any Mortgage recorded on or before the date such Assessments become due, subject to the following:

a) Effects of Voluntary and Involuntary Sale. The lien or claim against a Lot for such unpaid Assessments shall not be affected by any sale or transfer of such Lot, except that a sale or transfer pursuant to a foreclosure of the Mortgage affecting such Lot or the exercise of a power of sale available thereunder shall extinguish any debt payable prior to such sale or transfer. Nevertheless, any such unpaid Assessments which are extinguished in accordance with the foreclosure or power of sale shall not relieve the purchaser or transferee of such Lot from liability for, nor such Lot the lien of any Assessments becoming due thereafter.

b) Books and Records Available for Inspection. The Committee or the COMMUNITY ASSOCIATION shall make available to the Owners, to Mortgagees, and lenders, and to holders, insurers, or guarantors of any Mortgage current copies of the Declaration, By-Laws, Articles of Incorporation, and administrative rules and regulations concerning the Project, as well as the books, records, and financial statements of the Committee and the COMMUNITY ASSOCIATION. The term "Available", as used in the Paragraph, shall mean available for reasonable inspection upon request during normal business hours or under other reasonable circumstances. The COMMUNITY ASSOCIATION shall have the right to recover its photocopying and service charges incurred in making the inspection and photocopying available.

c) Right to Financial Statement. The holder, insurer or guarantor of any Mortgage shall be entitled, upon written request, to a financial statement for the immediately preceding fiscal year. Any financial statement requested pursuant hereto shall be furnished to the requesting party within a reasonable time following such request.

d) Management Contracts. Any agreement for professional management of the Project, and any contract for goods or services, or any lease which is entered into by the Management Committee or the COMMUNITY ASSOCIATION shall provide or be deemed to provide hereby that either party may terminate the contract with or without cause upon at least thirty (30) days prior written notice to the other party thereto.

e) Eligible Mortgagee Designation. Upon written request to the Committee or the COMMUNITY ASSOCIATION by the holder, insurer, or guarantor of a Mortgage (which request identifies the name and address of such holder, insurer or guarantor and the Lot Number or address of the property encumbered by the Mortgage held or insured by such holder, insurer, or guarantor), such holder insurer, or guarantor shall be deemed thereafter to be an "Eligible Mortgagee" or "Eligible Insurer" or "Eligible Guarantor," as the case may be, shall be included on the appropriate lists maintained by the COMMUNITY ASSOCIATION, and shall be entitled to timely written notice of any of the following:

(1) Condemnation Loss or Award. Any condemnation loss or any casualty loss which affects a material portion of the Project or any Lot on which there is a Mortgage held, insured, or guaranteed by such Eligible Insurer or Guarantor.

(2) Delinquency. Any delinquency in the payment of Assessments owed by an Owner of a Lot subject to a Mortgage held, insured or guaranteed by such Eligible Insurer or Guarantor, which delinquency remains uncured for a period of sixty days.

(3) Lapse of Insurance. Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Committee or the COMMUNITY ASSOCIATION.

(4) Consent Required. Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees.

f) No Right of First Refusal. The right of an Owner to sell, transfer, or otherwise convey his Lot shall not be subject to any right of first refusal or similar restriction.

25. Amendment. This Declaration may be amended as follows:

a) Consent of the Owners. The affirmative vote of at least sixty seven percent (67%) of the Owners at SADDLEBACK AT SMITH RANCH shall be required and shall be sufficient to amend the Declaration or the Plat Map. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by the Management Committee.

In such instrument the Committee shall certify that the vote required by this Section for amendment has occurred, and, if approval of a specified percentage of Eligible Mortgagees is required for such amendment, that such approval has been obtained. No amendment affecting the COMMUNITY DECLARATION without the total vote required by that document.

b) Consent of Eligible Mortgagee. The consent of at least sixty-seven percent (67%) of all Eligible Mortgagees shall be required to any amendment which would terminate the legal status of the Project; and the consent of Eligible Mortgagees holding at least fifty-one percent of the undivided Ownership interest in the Common Areas shall be required to add to or amend any material provision of this Declaration or the Plat Map which establishes, provides for, governs, or regulates any of the following: (1) voting rights; (2) increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or the priority of assessment liens; (3) reductions in reserves for maintenance, repair, and replacement of the Common elements; (4) insurance or fidelity bonds; (5) limitations and restrictions on the right to use of the Common Areas; (6) responsibility for maintenance and repairs; (7) expansion or contraction of the Project or the addition, annexation or withdrawal of property to or from the Project; (8) the boundaries of any Lot; (9) the percentages of ownership interest in the Common Areas; (10) convertibility of a Lot into Common Areas or Common Area into a Lot; (11) the imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his Lot; (12) express benefits or rights of Mortgagees, Eligible Mortgagees, or Eligible Insurers or Guarantors; and (13) the requirement that the Project be professionally managed rather than self managed. Any addition or amendment shall not be considered material for purposes of this Paragraph b) if it is for clarification only or to correct a clerical error. Notice of any proposed amendment to any Eligible Mortgagee to whom a written request to approve an addition or amendment to this Declaration or the Plat Map is required shall be mailed postage prepaid to the address for such Mortgagee shown on the list maintained by the COMMUNITY ASSOCIATION. Any Eligible Mortgagee who does not deliver to the Committee or the COMMUNITY ASSOCIATION a negative response to the notice of the proposed amendment within thirty (30) days from the date of such mailing shall be deemed to have approved the proposal. The foregoing consent requirements shall not be applicable to amendments to this Declaration and the Plat Map or the termination of the legal status of the Project as a planned unit development, if such amendments or such termination are made or accomplished in accordance with the provisions of this Declaration regarding Condemnation or Substantial Obsolescence. Anything to the contrary notwithstanding, if any financing or the guaranty of any financing on a Lot or Dwelling Unit is provided by the Federal Housing Administration of the United States Department of Housing and Urban Development (FHA), the Federal Home Loan Mortgage Corporation or the Mortgage Corporation (FHLMC), Federal National Mortgage Association (FNMA), Government National Mortgage Association (GNMA) or the Veterans Administration (VA), no material amendment, as defined above, to the Declaration, or merger, may become effective, as to said Agencies, without their prior express written consent.

26. Declarant's Sales Program. Notwithstanding anything to the contrary, until the expiration of the Period of Declarant's Control, neither the Owners, the COMMUNITY ASSOCIATION nor the Committee shall interfere with the completion of improvements and sale

of all remaining Lots, and Declarant shall have the following rights in furtherance of any sales, promotions or other activities designed to accomplish or facilitate the sale of all Lots owned by Declarant:

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

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

c) Common Area Use. Declarant shall have the right to use the Common Areas of the Project to facilitate sales.

d) Relocation and Removal. Declarant shall have the right from time to time to locate or relocate any of its sales offices, models, or signs, banners or similar devices. Within a reasonable period of time after the expiration of the Declarant's Period of Control, Declarant shall have the right to remove from the Project any signs, banners or similar devices and any separate structure or facility which was placed on the Property for the purpose of aiding Declarant's sales effort.

27. Limitation on Improvements by Association. Until the expiration of the Declarant's Control Period, neither the COMMUNITY ASSOCIATION nor the Committee shall, without the written consent of Declarant, make any improvement to or alteration in any of the Common Areas and Facilities created or constructed by Declarant, other than such repairs, replacements, or similar matters as may be necessary to properly maintain the Common Areas as originally created or constructed by Declarant.

28. Expansion of the Project.

a) Reservation of Option to Expand. Declarant hereby reserves the option to expand the Project to include additional Lots in the Project. This option to expand may be exercised from time to time, at different times and in any order, without limitation, provided however, the option shall expire ten (10) years from the date following the first conveyance of a Lot in Phase I to a Lot purchaser unless sooner terminated by Declarant's recorded Waiver of such option, there being no other circumstances which will cause the option to expire prior to said ten (10) years. Such right may be exercised without first obtaining the consent or vote of Lot Owners and shall be limited only as herein specifically provided. Such Lots shall be constructed on any or all portions of the Additional Property.

b) Supplemental Declarations and Supplemental Maps. Such expansion may be accomplished by the filing for record by Declarant in the office of the County Recorder of Utah County, Utah, no later than ten (10) years from the date this Declaration is recorded, a Supplement or Supplements to this Declaration containing a legal description of the site or sites for new Lots, together with supplemental Map or Maps containing the same information with respect to the new Lots as was required on the Map with respect to the Phase I Lots. The expansion may be accomplished in phases by successive supplements or in one supplemental expansion.

c) Expansion of Definitions. In the event of such expansion the definitions used in this Declaration automatically shall be expanded to encompass and refer to the Project as so expanded. The term "Property" shall mean the real property initially submitted under the Declaration, plus any Additional Land added to the Project by a Supplemental Declaration or by Supplemental Declarations, and reference to this Declaration shall mean this Declaration as so supplemented. All conveyances of Lots after such expansion shall be effective to transfer rights in the Project, with additional references to the Supplemental Declaration and the Supplemental Map. The recordation in the office of the Utah County Recorder of a Supplemental Map incident to any expansion shall operate automatically to grant, transfer, and convey to then Owners of Lots in the Project as it existed before such expansion the respective undivided interests in the new Common Areas added to the Project as a result of such expansion. Such recordation shall also operate to vest in any then mortgagee of any Lot in the Project as it existed, interest so acquired by the Owner of the Lot encumbering the new Common Areas added to the Project as a result of such expansion.

d) Declaration Operative on New Lots. The new Lots shall be subject to all the terms and conditions of this Declaration and of a Supplemental Declaration, and the Lots therein shall be subject to condominium ownership with all the incidents pertaining thereto as specified herein, upon recording the Supplemental Map and Supplemental Declaration in the said office of the Utah County Recorder.

e) Right of Declarant to Adjust Ownership Interest in Common Areas. Each deed of a Lot shall be deemed to irrevocably reserve to the Declarant the power to appoint to Lot Owners, from time to time, the percentages in the Common Areas set forth in Supplemental or Amended Declaration. The proportionate interest of each Lot Owner in the Common Areas after any expansion of the Project shall be an undivided interest of the Project as expanded. A power coupled with an interest is hereby granted to the Declarant, its successors and assigns, as attorney in fact to shift percentages of the Common Areas in accordance with Supplemental or Amended Declarations recorded pursuant hereto and each deed of a Lot in the Project shall be deemed a grant of such power to the Declarant. Various provisions of this Declaration and deeds and mortgages of the Lots may contain clauses designed to accomplish a shifting of the Common Areas. None of said provisions shall invalidate the other, but each shall be deemed supplementary to the other toward the end that a valid shifting of the Common Areas can be accomplished. Notwithstanding anything to the contrary herein, no change in the percentage of undivided interest in the Common Areas may be effected more than ten (10) years after the effective date of the Declaration.

Accordingly, upon the recordation of a Supplemental Declaration and Supplemental Map incident to any expansion, the revised schedule of undivided interests in the Common Areas contained therein shall automatically become effective for all purposes and shall fully supersede any similar schedule which was contained in any declaration associated with any prior phase. In the event the provisions of the separate instruments relating to the Project conflict irreconcilably, the terms of that instrument which was recorded most recently shall control.

f) Other Provisions Concerning Expansion. If the Project is expanded as hereinbefore contained, then it is further provided that:

(1) All or any part of the additional land may be added to the Project without any limitations whatsoever save and except that all additional Lots created must be restricted to multifamily residential housing limited to one family per Dwelling Unit.

(2) Portions of the additional land may be added to the Project at different times without any limitations.

(3) Declarant shall have the right without further conveyance or documentation to build roads and access ways to the additional property through the easement areas as shown on the Map. Neither the Association nor the Lot Owners shall allow anything to be built upon or interfere with said easement areas.

(4) No assurances are made concerning:

a. The locations of any improvement that may be made on any portion of the additional land that may be added to the Project.

b. Type, kind or nature of improvement which may be created on any portion of the Additional Land, except that the common facilities, Lots and Dwelling Units will be comparable to the Phase I facilities on a per Lot basis and will be of a similar quality of materials and construction to Phase I and will be substantially completed prior to annexation.

c. Whether any Lots created on any portion of the additional land will be substantially identical to those within the initial Project except that Dwelling Units will be constructed of an equal or better quality of materials and construction than the Dwelling Units in Phase I.

(5) Notwithstanding anything to the contrary which may be contained herein, the Declaration is not intended, and shall not be construed so as to impose upon Declarant any obligation respecting, or to restrict Declarant in any way with regard to: (a) the submission of any portion of the additional land to the provisions of the Act as land under this Declaration; (b) the creation, construction, or addition to the Project of any additional property; (c) the carrying out in any particular way or within any particular time of any development which may be undertaken except as herein mentioned; or (d) the taking of any particular action with respect to the additional land, the Project or any land.

(6) Assuming that only Phase 1 of the Subdivision is completed the minimum number of Lots in this Subdivision would be thirty-two (32) and the maximum percentage of ownership interest of each Lot would be 3.125%. Assuming additional phases are completed and additional land is added to the number of Lots and the percentages of ownership interest will change.

29. Declarant's Rights Assignable. All of the rights of Declarant under this Declaration may be assigned or transferred either by operation of law or through a voluntary conveyance, transfer or assignment. Any Mortgage covering all Lots or Buildings in the Project title to which is vested in Declarant shall, at any given point in time and whether or not such Mortgage does so by its terms, automatically cover, encumber, and include all of the then unexercised or then unused rights, powers, authority, privileges, protection and controls which are accorded to Declarant (in its capacity as Declarant) herein.

30. Working Capital Fund. A working capital fund shall be established by the Declarant to meet unforeseen expenditures or to purchase any additional equipment or services. The initial working capital fund shall be in an amount equal to two (2) months of estimated common assessments for each Lot. Each Lot's share of the working capital fund shall be collected either at the time the sale of any Unit is closed or when control of the Project is transferred to the Lot Owners, whichever first occurs. Any amounts paid into the working capital fund shall not be considered as advance payments of regular monthly assessments. The working capital fund shall be transferred to the COMMUNITY ASSOCIATION for deposit to a segregated fund when control of SADDLEBACK AT SMITH RANCH is transferred to the Lot Owners. The Declarant is prohibited from using the working capital fund to defray any of its expenses, reserve contributions, or construction costs or to make up any budget deficits while it is in control. When a Lot is sold, however, the Declarant may reimburse itself for monies it has paid the COMMUNITY ASSOCIATION for an unsold Lot's share of the working capital fund by using funds collected at closing when the Lot is sold.

31. Transfer of Management. Anything to the contrary notwithstanding, Declarant may at any time relinquish its control of SADDLEBACK AT SMITH RANCH, and to transfer management of the Project to the COMMUNITY ASSOCIATION. If and when Declarant elects to do so, Declarant shall send written notification to the COMMUNITY ASSOCIATION and each Owner of the effective date of the transfer (the "Transfer or Transition Date") at least Forty five (45) days prior thereto. Thereupon, the Owners shall call a meeting to elect the members of their own Management Committee to take office as of the Transfer Date. Declarant covenants to cooperate with the Owners in effecting an orderly transition of management. Moreover, Declarant shall cause all obligations for Common Area expenses of the Committee incurred prior to the Transfer Date to be paid in full on or before such date.

32. Certain Provisions Applicable to Declarant. Notwithstanding any other provision herein contained, for so long as Declarant continues to own any of the Lots the following provisions shall be deemed to be in full force and effect, none of which shall be construed so as to relieve the Declarant from any obligations of an Owner to pay Assessments or Assessments,

except as herein otherwise provided, as to each Lot owned by Declarant in accordance with the Declaration.

a) Declarant specifically disclaims any intent to have made any warranty or representation in connection with the Project or the Declaration except as specifically set forth herein or in any agreement for sale of a Lot, and no person shall rely upon any warranty or representation not so specifically made therein.

b) No amendment may be made to the Declaration without the written consent of Declarant so long as Declarant retains the Ownership of five (5) or more Lots within the Project.

33. Interpretation. To the extent Utah law is consistent with this Declaration, such provisions shall supplement the terms hereof and are incorporated herein. 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 part thereof, and any gender shall include both other genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.

34. Conflict. In the event of any conflict, inconsistency or incongruity between the provisions of this DECLARATION and the provisions of the COMMUNITY DECLARATION, the provisions of the latter shall in all instances govern and control.

35. 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 COMMUNITY ASSOCIATION, all other signatories hereto, all parties who hereafter acquire any interest in a Lot or in the Project, and their respective grantees, transferees, heirs, devisees, personal representative, successors, and assigns. Each Owner or resident of a Lot shall comply with, and all interests in all Lots shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, supplements, amendments, and determinations contemplated by this Declaration. By acquiring any interest in a Lot in the Project, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

36. Enforcement and Right to Recover Attorney's Fees. The COMMUNITY ASSOCIATION, Management Committee, or any aggrieved Lot Owner may take action, at law or in equity, to enforce the terms, covenants or conditions of the Project Documents, and should they be required to take action to interpret or enforce the Project Documents, or to pursue any remedy provided hereunder or by applicable law, including without limitation an action for injunctive relief or damages, whether such remedy is pursued by filing a lawsuit or otherwise, and the prevailing party may recover all of their Additional Charges, including a reasonable attorney's fee and costs, which may arise or accrue.

37. Security. The COMMUNITY ASSOCIATION may, but shall not be obligated to, maintain or support certain activities within the Project designed to make the Project safer than it otherwise might be. However, neither the COMMUNITY ASSOCIATION nor the Committee shall in any way be considered insurers or guarantors of security within the Project. Neither the COMMUNITY ASSOCIATION nor the Management Committee shall be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. All Owners and residents, their guests and invitees, as applicable, acknowledge that neither the COMMUNITY ASSOCIATION nor the Committee represent or warrant that any security measures undertaken will insure their safety. All Owners and residents, their guests and invitees, acknowledge and understand that the COMMUNITY ASSOCIATION and Committee are not insurers of their safety and they hereby assume all risks for loss or damage to their person or property and further acknowledge that the COMMUNITY ASSOCIATION and Committee have made no representations or warranties, nor have they relied upon any representations or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any security measures undertaken within the Project.

38. Architectural and Design Standards -- Generally. No improvements, including without limitation all clearing, excavation, grading and other site work, exterior alteration of existing improvements, including without limitation painting, placement or posting of any object or thing on the exterior of any Lot, Dwelling Unit, other structure or the Common Area fences, signs, flags, banners, antennae, clotheslines, playground equipment, lighting, pools, temporary structures, and artificial vegetation, planting or removal of landscaping materials, or installation or removal of an irrigation system shall take place except in compliance with this Declaration, the Use Restrictions, the Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION and/or Design Review Committee Rules, and with the approval of Design Review Committee or ARC. Any Owner may remodel, paint or redecorate the interior of structures, including the Dwelling Unit, on his or her Lot without approval. However, modifications to the interior of screened porches, patios, and similar portions of a Lot visible from outside the structures on the Lot shall be subject to this Declaration and approval as set forth below. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. The Architectural and Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION shall not apply to the activities of the Declarant but shall apply to any and all improvements to the Common Area by or on behalf of the COMMUNITY ASSOCIATION. Nothing contained herein or in any other provision of any of the Project Documents shall be construed to prevent the erection or maintenance by Declarant or its duly authorized agents of structures, improvements, flags, banners, signs, or any other object or thing necessary or convenient to the development or sale of the Project. The Architectural and Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION may not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Declaration or subject to annexation to this Declaration. Provided, however, the architectural and design guidelines for SADDLEBACK AT SMITH RANCH may not be changed or amended without the express written consent of the Town of Eagle Mountain, which shall not be unreasonably withheld or delayed.

39. Architectural and Design Review. The following restrictions apply to architectural and design review:

a) New Construction. Until 100% of the Maximum Number of Residential Lots have been developed and conveyed to Class "A" Members, the Declarant, subject the restrictions set forth in the COMMUNITY DECLARATION and the authority, rules and regulations of the Design Review Committee or ARC, shall have exclusive authority to administer and enforce architectural controls and to review and act upon all applications for original construction within the Project. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by Declarant. Declarant may assign its rights hereunder in whole or in part, at any time, to a Architectural Review Committee ("ARC") for the Property.

b) Architectural Review Committee: Modifications. Prior to the sale of the first Lot to a Class "A" Member, the Management Committee shall establish the Design Review Committee or ARC, which shall consist of at least three Persons. Members of the Design Review Committee or ARC shall be appointed and shall serve at the discretion of the Management Committee; provided, however, as long as the Declarant owns any of the Property, it shall be entitled to appoint one member of the Design Review Committee or ARC. The Design Review Committee or ARC shall have exclusive jurisdiction over modifications, additions, or alterations made on or to existing structures or on or to Lots containing Dwelling Units (including, without limitation, the initial landscaping on a Lot), the adjacent open space, and Common Area; provided, however, any change to the Common Area shall require the approval of the Declarant as long as it owns any of the Property. Subject to the Declarant's rights, the Design Review Committee or ARC also may be assigned jurisdiction over original construction within the Project. As long as Declarant owns any property in the Project, the Design Review Committee or ARC shall notify the Declarant in writing of any action taken hereunder. During such time, the Declarant shall have the right in its sole and absolute discretion, to veto any action taken by the Design Review Committee or ARC; provided, the Declarant's right to veto must be exercised within 30 days of its receipt of notice of action taken by the Design Review Committee or ARC. The party submitting the Plans for approval shall not be notified of the Design Review Committee or ARC's approval or disapproval until after Declarant's right to veto has been exercised or has expired. The Management Committee, with the approval of the Declarant for so long as the Declarant owns any of the Property, may create and appoint such subcommittees of the Design Review Committee or ARC as deemed appropriate. Such subcommittees may be established to preside over particular areas of review (e.g., landscape plans) and shall be governed by such procedures as may be established by the Design Review Committee or ARC or the Management Committee. Any action of any subcommittee shall be subject to the review and approval of the Design Review Committee or ARC and the Declarant, for as long as the Declarant owns any of the Property. Notwithstanding the above, neither the Design Review Committee or ARC nor the Declarant shall be obligated to review all actions of any subcommittees and the failure to take action in any instance shall not be a waiver of the right of the Design Review Committee or ARC or the Declarant to act in the future. the Design Review Committee or ARC may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any

application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. The Declarant and the COMMUNITY ASSOCIATION may employ architects, engineers, or other persons as deemed necessary to perform the review. The Management Committee may include the compensation of such persons in the COMMUNITY ASSOCIATION'S annual operating budget as a Common Expense.

40. Guidelines and Procedures. The Declarant has prepared Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION, attached as Exhibit "F," which have been approved by the Town of Eagle Mountain. The approved Design Guidelines shall apply to all construction activities within the Project. The Declarant shall have sole and full authority to change, amend and supplement the Design Guidelines as long as it owns any of the Property; provided, however, the approved Design Guidelines may not be changed, amended or supplemented without the express written consent of the Town, which shall not be unreasonably withheld or delayed. After the Declarant has sold all of its right, title and interest in or to the Property, or any part thereof, the Design Review Committee or ARC shall have the authority to supplement and amend the Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION, subject to the consent of the Town and/or Management Committee. The Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION may contain general provisions applicable to all of the Project, as well as specific provisions which vary from one portion of the Project to another depending upon location, unique characteristics, intended use, the Master Plans, and any other applicable zoning ordinances. The Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION are intended to provide guidance to Owners and Builders regarding matters of particular concern in considering applications hereunder. The Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION shall not be the exclusive basis for decisions of the Design Review Committee or ARC and compliance with the Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION shall not guarantee approval of any application. Any amendments to the Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION shall apply to construction and modifications commenced after the date of such amendment only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. Except as set forth herein, there shall be no limitation on the scope of amendments to the Design Guidelines; for example, the Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION may be amended to remove requirements previously imposed or otherwise to make the Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION less restrictive. All structures and improvements constructed upon a Lot shall be constructed in strict compliance with the Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION in effect at the time the plans for such improvements are submitted to and approved by the Design Review Committee or ARC, unless the Design Review Committee or ARC has granted a variance in writing. So long as the Design Review Committee or ARC has acted in good faith, and subject to the rights of the Declarant and the Town, its findings and conclusions with respect to appropriateness of, applicability of, or compliance with the Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION and this Declaration shall be final. The COMMUNITY ASSOCIATION shall make the Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION available to Owners and Builders who seek to engage in

development or construction within the Project and all such Persons shall conduct their activities in accordance with such Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION.

41. Submission of Plans and Specifications. The following restrictions apply to the submission of all Plans and Specifications:

a) Plan. Prior to commencing any construction, an Owner shall submit an application for approval of the proposed work to the appropriate the Design Review Committee or ARC. Such application shall be in the form required by the Design Review Committee or ARC and shall include such information as required under the Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION, such as Plans showing site layout, structural design, exterior elevations, exterior materials and colors, signs, landscaping, drainage, lighting, irrigation, utility facilities layout and screening therefor, and other features of proposed construction, as applicable. The Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION shall set forth the procedure and any additional information for submission of the Plans. Before the Owner may begin the proposed activity, the application must be approved by the Design Review Committee or ARC.

b) Review. In reviewing each submission, the Design Review Committee or ARC may consider quality of workmanship and design, visual and environmental impact, ecological compatibility, natural platforms and finish grade elevation, harmony of external design with surrounding structures and environment, and location in relation to surrounding structures and plant life. the Design Review Committee or ARC may require relocation of native plants within the construction site, the installation of an irrigation system for the landscaping, or the inclusion of natural plant life on the Lot as a condition of approval of any submission. Approval by the Design Review Committee or ARC shall not constitute approval of or waiver of approvals or reviews required by the Declarant, or any other governmental agency or entity having jurisdiction over architectural or construction matters. The Design Review Committee or ARC shall not require permits or other approvals by local government entities other than those issued by such entities in the usual course of business. the Design Review Committee or ARC shall, within the period specified in the Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION, advise the party submitting the Plans, in writing, at an address specified by such party at the time of submission, of (1) the approval of Plans, or (2) the segments or features of the Plans which are deemed by the Design Review Committee or ARC to be inconsistent or not in conformity with this Declaration and/or the Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION, the reasons for such finding, and suggestions, if appropriate, for the curing of such objections. In the event the Design Review Committee or ARC fails to advise the submitting party by written notice within the period specified in the Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION of either the approval or disapproval and suggestions for curing the objections of the committee of the Plans, approval shall be deemed to have been given. Notice (for purposes of this Section only) shall be deemed to have been given at the time the envelope containing such notice, properly addressed, and postage prepaid, is deposited with the U.S. Postal Service. Personal delivery of such written notice shall, however, be sufficient

and shall be deemed to have been given at the time of delivery to the submitting party.

c) Conditions. The Design Review Committee or ARC, as part of the Plan approval, may require that construction in accordance with approved Plans be commenced within a specified time period. In such event, if construction does not commence in a timely manner, then such approval shall be deemed withdrawn, and it shall be necessary for the Owner to resubmit the Plans to the Design Review Committee or ARC for reconsideration. If construction is not completed on a project for which Plans have been approved within the period, if any, set forth in the Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION or in the approval, such approval shall be deemed withdrawn, and such incomplete construction shall be deemed to be in violation of this Declaration.

42. No Waiver of Future Approvals. Each Owner acknowledges that the members of Design Review Committee or ARC will change from time to time and that interpretation, application and enforcement of the Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION may vary accordingly. Approval of proposals, Plans and Specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, Plans and Specifications, drawings, or other matters subsequently or additionally submitted for approval.

43. Variance. The Design Review Committee or ARC may authorize variances in writing from its guidelines and procedures, but only: (a) in accordance with duly adopted rules and regulations, (b) when unique circumstances dictate, such as unusual topography, natural obstructions, hardship or aesthetic or environmental considerations, and (c) when construction in accordance with the variance would be consistent with the purposes of the Declaration and compatible with existing and anticipated uses of adjoining Project. Inability to obtain a permit or license, or the terms or conditions of any governmental approval or any financing shall not be considered a hardship warranting a variance. Notwithstanding the above, the Design Review Committee or ARC may not authorize variances without the written consent of the Declarant, as long as it owns any of the Property or has a right to annex any Additional Property.

44. Limitation of Liability. Review and approval of any application pursuant to this section is made on the basis of aesthetic considerations only and neither the Declarant, the COMMUNITY ASSOCIATION, its officers, the Management Committee, the Design Review Committee or ARC, the COMMUNITY ASSOCIATION's management agent, or any member of the foregoing, shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the COMMUNITY ASSOCIATION, its officers, the board, the Design Review Committee or ARC, the COMMUNITY ASSOCIATION's management agent, or member of any of the foregoing shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction on or modifications to any Lot. In all matters, the Design Review Committee or ARC and its members shall be defended and indemnified by the COMMUNITY ASSOCIATION as provided in the By-Laws.

45. Enforcement of Architectural and Design Guidelines and Restrictions. Any construction, alteration or other work done in violation of this Section or the Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION shall be deemed to be nonconforming. Upon written request from the COMMUNITY ASSOCIATION, Owners shall, at their own cost and expense and within such reasonable time frame as set forth in such written notice, cure such nonconformance to the satisfaction of the COMMUNITY ASSOCIATION or restore the property, Lot and/or Dwelling Unit to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the COMMUNITY ASSOCIATION or its designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with the interest at the rate established by the Management Committee (not to exceed the maximum rate then allowed by law), may be assessed against the benefitted Lot and collected as a Benefitted Assessment unless otherwise prohibited in this Declaration. All approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Lot, unless approval to modify any application has been obtained. In the event that any Person fails to commence and diligently pursue to completion all approved work by the deadline set forth in the approval, the COMMUNITY ASSOCIATION shall be authorized, after notice to the Owner of the Lot and an opportunity to be heard in accordance with the By-Laws, to enter upon the Lot and remove or complete any incomplete work and to assess all costs incurred against the Lot and the Owner thereof as a Benefitted Assessment unless otherwise prohibited in this Declaration. All acts by any contractor, subcontractor, agent, employee, or invitee of an Owner shall be deemed as an act done by or on behalf of such Owner. Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Section and the Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION may be excluded from the Project, subject to the notice and hearing procedures contained in the By-Laws. In such event, neither the Declarant, the COMMUNITY ASSOCIATION, its officers, or directors shall be held liable to any Person for exercising the rights granted by this paragraph. The COMMUNITY ASSOCIATION shall be primarily responsible for enforcement of this Section. If however, in the discretion of the Declarant, the COMMUNITY ASSOCIATION fails to take appropriate enforcement action, as authorized herein, within a reasonable time period, the Declarant, for so long as it owns any of the Property, may, but shall not be obligated to, exercise enforcement rights in the same manner as set forth above. In addition to the foregoing, the COMMUNITY ASSOCIATION and the Declarant shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Section and the decisions of the Design Review Committee or ARC.

46. Basic Building Restrictions. The following basic building restrictions shall be binding upon the construction of Improvement in or on the Property:

a) Use of Property. Each Lot shall be used solely for single family residential purposes.

b) ARC Approval. The Plans and Specifications, including the location of all improvements must be approved in writing by Design Review Committee prior to commencement of any construction in accordance with and subject to this Declaration.

c) Architecture-Elevation Articulation ratio (EAR). The elevation articulation ratio is intended to establish a measure of acceptable architectural materials and massing for an elevation. This ratio shall be established for all elevations of a dwelling as well as averaged in order to meet the minimum requirements. The EAR shall meet the criteria of Design Guidelines as recorded by the County Recorder in Utah County, Utah for "Entry Level Neighborhoods," found on or about page 36, paragraph 6.4.2.2 of the Design Guidelines.

d) Property Line Setbacks. Any structures to be constructed on a Lot shall comply with the following minimum property line setbacks:

Front yard: 15 feet from back of sidewalk
 Rear yard: 25 feet
 Side yards: 5 feet on either side

e) Floor Space. The minimum size of each single story, bi-level or tri-level Dwelling Unit shall meet the criteria of Design Guidelines as recorded by the County Recorder in Utah County, Utah for "Entry Level Neighborhoods," found on or about page 36, paragraph 6.4.2.2A of the Design Guidelines.

f) Exterior Materials. All Exterior Surfaces of any building shall be of materials and of colors approved by the Design Review Committee or ARC, as specified in this Declaration, and in accordance with this Declaration and Section VII, Architecture Guidelines found on or about pages 29-39 of the Design Guidelines.

g) Roofs. All roofs shall be constructed in accordance with in accordance with the Design Guidelines as set forth on or about page 33, paragraph 6.4.1.3C and page 36, paragraph 6.4.2.2E.

h) Roof Overhangs. All roof overhangs shall be constructed in accordance with the Design Guidelines as set forth on or about page 33, paragraph 6.4.1.3.C and page 36, paragraph 6.4.2.2.E.

i) Height. With the exception of the Community Center and related Buildings, no Building shall exceed 35 feet in height measured from the highest natural ground level adjacent to such Building to the highest point of the ridge line of such Building. See page 29, paragraph 6.3.1.A of the Design Guidelines.

j) Garages. All Garages must meet the criteria of the Design Guidelines as found on or about page 33, paragraph 6.4.1.3.D and page 36, paragraph 6.4.2.2.A.

k) Garage Doors. All Garage doors shall meet the criteria of the Design Guidelines, on or about page 30, paragraph 6.3.1.E and page 33, paragraph 6.4.1.3.D.

l) Porches and Covered Entries. Front porches and/or covered entries shall be required on all front yard and public street facing elevations. Front porches/covered entries shall measure a minimum of 80 square feet and shall be a minimum of 6 feet deep. See page 33, paragraph 6.4.1.3.E of the Design Guidelines.

m) Foundations. A maximum of 8 inches of exposed concrete foundation shall be permitted. A maximum of 20 inches of exposed concrete shall be permitted on elevations where the grade slopes along the Dwelling Unit. Requirements are specifically addressed on or about page 30, paragraph 6.3.1.B of the Design Guidelines. Concrete Masonry Units (CMU) used for foundation purposes shall be painted to match the main dwelling.

n) Windows. A minimum of one window on each elevation of a Dwelling Unit shall be required. Metal windows are prohibited. The specific criteria for windows are set forth on or about page 30, paragraph 6.3.1.D of the Design Guidelines.

o) Decks. Decks shall be integrated with the architecture of the main Dwelling Unit. Covered deck roof forms shall be consistent with the slope of the main roof on the Dwelling Unit. Deck supporting posts shall be 8 inches or greater. Exposed wood deck elements shall be painted or stained. See page 30, paragraph 6.3.1.C of the Design Guidelines

p) Construction Time Requirement. Construction must be commenced within 18 months of the closing on a Lot purchase and must be completed with 9 months thereafter.

q) New Construction. All dwelling units shall be of new construction. No other building (including but not limited to playhouses and storage sheds) may be moved onto a Lot without the prior written approval of the Design Review Committee or ARC.

r) Storage of Building Materials. No building materials shall be stored on any Lot except temporarily during construction of an improvement or its alteration, renovation or remodeling, and then only when a building permit is in force.

s) Occupancy During Construction. No Improvement or structure shall be occupied in the course of original construction until the appropriate governmental authorities have issued all required certificates of occupancy. All work of construction shall be prosecuted diligently and continuously from the time of commencement until completed.

t) Temporary Structures. No trailer, mobile home, tent, shack or other temporary building, improvement or structure shall be placed upon any property without the prior approval of the Design Review Committee or ARC except that temporary structures necessary for storage of tools and equipment and for office space for architects, sales personnel, builders and foremen during actual construction may be maintained with the prior approval of the said Design

Review Committee, with such approval to include the nature, size and location of such structure.

u) Construction Activities. This Declaration shall not be construed so as to unreasonably interfere with, or prevent normal construction of Improvements by any Owner, provided that when completed such Improvements shall in all ways conform to this Declaration. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs, or similar activities, provided that such construction is pursued to completion with reasonable diligence and is in compliance with applicable federal, state and local laws and ordinances and any rules and regulations adopted pursuant thereto, and conforms to usual construction practices in the area. In the event of any dispute, a temporary waiver of the applicable provision, including but not limited to any provision prohibiting temporary structures, may be granted by the Design Review Committee, provided that such waiver shall be only for the reasonable period of such initial construction. Such waiver may, but need not, be recorded or in recordable form.

v) Driveways. Driveways for dwellings shall be large enough to accommodate at least 2 parked automobiles. Hard surface driveways (e.g., concrete, brick pavers, etc.) are required and shall be property maintained. No asphalt or gravel driveways are permitted.

47. Utilities. Each Lot Owner shall be and is hereby made subject to all easements that now or in the future may be used for gas, electric, telephone, cable television, cable for computers, water, sewer, and other lines present or in the future, as are necessary to provide utility services to said Lot, adjoining Lots, and the Improvements thereon. Each Owner by accepting a deed or other document of conveyance agrees to execute such further grant(s) or other instruments as may be required by any utility or other company or public governmental or quasi-governmental entity for such purposes. Subsequent to the date of the execution of this Declaration, any necessary electrical, telephone, gas, water, sewer, cable television, cable for computers, and other utility conduits, lines and pipes on any Lot shall be placed underground. No transformer, or electric, power, gas, water or other meter or device of any type, or any other apparatus shall be located on any pole within the Property. All utility installations must be approved by the Design Review Committee or ARC or its designee in writing in advance. Each Owner shall abide by all applicable rules and regulations of all utility and other companies, governmental entities or quasi-governmental entities, who supply or provide utilities or related services to the Property. The Declarant shall be obligated to install all street lights required by the Town of Eagle Mountain. Street lights installed on the Property, or any portion thereof, including without limitation any Lot, shall be subject to and governed by the Town of Eagle Mountain tariffs, assessments and fees, which are now effective or which may become effective in the future. This includes all rates, rules and regulations adopted by the Town of Eagle Mountain as they may be adopted, amended or repealed from time to time. Each Lot Owner shall pay as billed his portion of the cost of street lighting as determined by the Town of Eagle Mountain.

48. Landscaping Guidelines.

a) Basic Package. Each Lot is required to have a basic landscape package installed by the Owner and/or his builder. This landscape will define the edges of neighborhoods, the streetscapes within them, and become the base planting for the overall development of the Subdivision. All installed front yard landscapes, whether by the builder or Owner, are required to insure a quality streetscape. Xeriscape principles, including semi-irrigated "native" turf and drip irrigation shall be utilized where practical. A list of appropriate plant materials shall be provided for the use of Owners so that they may install additional plantings that are complementary to those installed by the Declarant or builder in common landscaped areas. Design components established for the entire Community, such as ranch and neighborhood signage, should be incorporated accordingly.

b) Minimum Requirements. All Lots and Owners must comply with the minimum landscape requirements. These landscape improvements are to be installed by the Owner and/or builder within ninety (90) days of home occupancy. If occupancy occurs during winter months then the required landscaping shall be installed within ninety (90) days from the start of the next growing season. The Owner or builder may be required to submit funds for proposed landscape cost plus 10% to be escrowed to the Declarant's approved title company if occupancy is during the winter season.

c) Front Yard Landscaping and Plan. The builder shall provide a front yard landscape and shall submit a typical plan to the Declarant for review.

d) Minimum Number of Trees. Each Lot shall have a minimum requirement of 2 street trees per Lot (minimum 2.5" caliper) to be planted along the parkstrip. Any Lot over 8,000 square feet shall add 1 tree per 2,000 additional square feet over 8,000 square feet. Corner Lots shall have 3 trees unless the Lot is over 8,000 square feet, then the Owner or builder shall add 1 tree per 2,000 additional square feet.

e) Turf Coverage. Front lawns shall have a maximum turf coverage of 80%, except for corner Lots, which shall have a maximum turf coverage of at least 75% percent turf coverage. Drought tolerant turf grass species such as improved fescues or buffalo grass are strongly encouraged.

f) Planting Beds. Planting beds shall be 50% covered by plant material at the time of installation. After 3 years plants shall cover at least 75% of the planting beds. Seasonal flowers shall qualify as cover.

g) Additional Tree Requirements. Lots under 20,000 square feet shall have 1 tree in addition to the required street trees as set forth above and it is highly recommended that this additional tree be an evergreen.

h) Material Prohibitions. No marble chips, volcanic rock, or high contrast stone patterns (e.g., black, white, red, etc.) shall be used. Open areas not covered with plants shall be covered with wood or rock mulch.

- i) Corner Lot Sightline Requirements. Corner Lot sightlines shall not have any plant material exceeding 30 inches in height at mature growth.
- j) List of Approved Materials. The Declarant, builder or Owner shall select plant materials from the approved plant list.
- k) Irrigation Systems. Automatic sprinkler systems for lawns shall be required.
- l) Soils. The addition of soil amendments to existing soil is required. A typical pacification for soil amendments includes 3 cubic yards of amendment per 1,000 square feet of area. Typical ratios are one-third of the total mix for each of the elements listed above. Builders and Owners should contact local nurseries for specific recommendations. A site specific horticultural solids test cab also provide specific soils information.
- m) Fencing. All fencing must be consistent with the Design Guidelines for SADDLEBACK AT SMITH RANCH SUBDIVISION and approved by the Design Review Committee or ARC in writing. No barbed wire fencing is permitted. No Lot Owner shall remove, add to, alter, stain or paint the front fencing without consent of the Design Review Committee or ARC. Side and rear fencing may be installed by the Lot Owner. No fencing may be installed by the Lot Owner in the front yard, (or the side yard adjacent to a public street on a corner lot), of a Dwelling Unit, except that is may extend toward the side property lines only as far forward as the front corners of said Dwelling.
- n) Roads. The COMMUNITY ASSOCIATION will maintain that portion of the Property commencing at the edge of road pavement to the front Lot line as needed and supplementing Town of Eagle Mountain maintenance to insure weed control, grass and vegetation heights, uniform appearance, etc. Lot Owners shall maintain the respective areas in front of their Lots free of debris, obstacles, etc. so as not to impede or impair the maintenance of the COMMUNITY ASSOCIATION.
- o) Maintenance of Unimproved Lot. Each Lot Owner is responsible from the date of receipt of the deed to his Lot to maintain that unimproved Lot free and clear of weeds, trash and debris. Each unimproved Lot shall be mowed at least twice per year or as many additional times as may be necessary to maintain growth below 36 inches in height.
- p) Grading. No material change may be made in the ground level, slope, pitch or drainage patterns of any Lot as fixed by the original finish grading except after first obtaining the prior written approval of the Design Review Committee or ARC. Grading shall be maintained at all times so as to conduct irrigation and surface waters away from Buildings and so as to protect foundations and footings from excess moisture. Any drainage flows directed to adjacent Lots should not exceed historic flows. Owners shall not impede or retain water flow in any of the natural drainage gulches.

q) Entry. Entry structures may be placed on footprint easements on the Entry Lots. Such structures shall be maintained by the COMMUNITY ASSOCIATION. The COMMUNITY ASSOCIATION or its designated agents have right of access to perform maintenance. Lot Owners may not obstruct the view, attach any improvement, including fencing, to, against, or in front of such structures. Lot Owners shall maintain their Lots adjacent to the entry structures. The COMMUNITY ASSOCIATION will maintain all entries including landscaping, monuments, walls, etc.

49. Approval of Improvements and Structural Alterations by COMMUNITY ASSOCIATION. Regarding Improvements to the Property and subsequent structural alterations thereon:

a) Approval Required. No improvement, building, fence, wall or other structure shall be commenced, erected, repaired, altered, added to or maintained until the Plans and Specifications showing the nature, kind, shape, height, materials, floor plans, exterior color scheme and location of such structure, and the grading plans and finished grade elevations of the Lot to be built upon have been submitted to and approved by the Design Review Committee or ARC hereinafter described and a copy thereof, provided by the owner as finally approved, lodged permanently with said Committee pursuant to the provisions of this Section. No landscaping on any Lot shall be done until a landscaping plan shall have been submitted to and approved by such Committee. Such Committee shall have the right to refuse to approve any such Plans or Specifications, or grading or landscaping plans which are not suitable or desirable in the Committee's opinion, for aesthetic or other reasons, and in so passing upon such plans, specifications, grading and landscaping plans, the Committee shall have the right to take into consideration the suitability of the proposed building or other improvement and of the materials of which it is to be built, to the Lot upon which it proposes to erect the same, the harmony thereof with the surroundings, the topography of the land and the effect of the building or other improvements as planned on the outlook from the adjacent or neighboring Lots. All subsequent additions to or changes or alterations in any building, fence, or other improvement, including exterior color scheme and all subsequent additions to or changes or alterations in any grading or landscaping plans shall be subject to the prior approval of the Design Review Committee or ARC.

b) Members of Committee. the Design Review Committee or ARC shall consist of not less than 3 members, nor more than six members. The following persons are hereby designated as the initial members of the Committee:

- Bill Adams
- Mark Kopatz
- Kyle Harris
- Debbie Hooge

Each member of the Committee shall hold office until such time as he has resigned or has been removed or his successor has been appointed as provided herein. The Management Committee of the COMMUNITY ASSOCIATION may remove members of the Design Review Committee or ARC at any time with or without cause.

c) Appointment of Members. The Management Committee of the COMMUNITY ASSOCIATION shall have the right to appoint and remove all members of the Design Review Committee or ARC, except that during the period of Declarant's control, the Declarant may appoint 3 members of the Committee.

d) Review of Proposed Construction. Whenever in this Declaration the approval of the Design Review Committee or ARC is required, it shall have the right to consider all of the Plans and Specifications for the improvement or proposal in question and all other facts, which in its sole discretion are relevant. Prior to commencement of any construction of any improvement on any Lot, the Plans and Specifications shall be submitted to the Design Review Committee or ARC at 758 South 400 East, #203, Orem, Utah 84097, and construction thereof may not commence unless and until the Committee has approved such Plans and Specifications in writing. The Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration or as from time to time shall be assigned to it by the COMMUNITY ASSOCIATION, including the inspection of construction in progress to assure its conformance with Plans and Specifications approved by the Committee. The Committee shall approve Plans and Specifications submitted for its approval only if it deems that the construction, alterations, or additions contemplated thereby in the locations indicated, will not be detrimental to the surrounding area or Lots as a whole, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures. The Committee may condition its approval of Plans and Specifications or on other information prior to approving or disapproving the material submitted. The Committee may also issue rules or guidelines regarding anything relevant to its function, including but not limited to minimum standards and procedures for the submission of Plans and Specifications for approval. The Committee may require a one-hundred-fifty dollar (\$150.00) fee to accompany each application for approval. The Committee may require such detail in Plans and Specifications submitted for its review and such other information, as it deems proper. Until receipt by the Committee of all required Plans and Specifications and other information, the Committee may postpone review of anything submitted for approval. All improvements must comply with the zoning codes and ordinances of the Town of Eagle Mountain, Utah.

e) Committee Meetings. the Design Review Committee or ARC shall meet from time to time as necessary to perform its duties hereunder. The Committee may from time to time by resolution, unanimously adopted in writing, designate one of its members to take any action or perform any duties for and on behalf of the Committee. In the absence of such designation, the vote of a majority of all of the members of the Committee, or the written consent of a majority of all of the members of the Committee taken without a meeting, shall constitute an act of the Committee.

f) Waiver of Consent. The approval or consent of the Design Review Committee or ARC to any Plans or Specifications for any work done or proposed, or in connection with any other matter requiring the approval or consent of the Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any Plans or Specifications or other matter whatever subsequently or additionally submitted for approval or consent by the

same or a different person.

g) Compensation. The members of the Design Review Committee or ARC shall be entitled to reasonable compensation from the COMMUNITY ASSOCIATION for services rendered, together with reimbursement for expenses incurred by them in the performance of their duties hereunder.

h) Completed Work. Inspection of completed work and correction of defects therein shall proceed as follows:

(1) Upon the completion of any improvement for which approved Plans and Specifications are required under this Declaration, the Owner shall give written notice of completion to the Committee.

(2) Within such reasonable time as the Committee may set but not to exceed fifteen (15) days thereafter, the Committee or its duly authorized representative may inspect such improvement. If the Committee finds that such work was not done in strict compliance with all approved Plans and Specifications submitted, or required to be submitted for its prior approval, it shall notify the Owner in writing of such noncompliance within such period, specifying in reasonable detail the particulars of noncompliance, and shall require the Owner to remedy the same.

(3) If upon the expiration of thirty (30) days from the date of such notification the Owner shall have failed to remedy such noncompliance; the Committee shall notify the Management Committee in writing of such failure. Upon Notice and Hearing, the Management Committee shall determine whether there is a noncompliance and if so, the nature thereof and the estimated cost of correcting or removing the same. If noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date of announcement of the Management Committee ruling. If the Owner does not comply with the Management Committee's ruling within such period, the Management Committee at its option, may either remove the non-complying improvement or remedy the noncompliance, and the Owner shall reimburse the COMMUNITY ASSOCIATION upon demand for all expenses incurred in connection therewith. If such expenses are not promptly repaid by the Owner to the COMMUNITY ASSOCIATION, the Management Committee shall levy an assessment against such Owner, the Improvement in questions and the Lot upon which the same is situated for reimbursement, and the same shall constitute a lien upon such land and improvement and be enforced as provided in this Declaration.

(4) If for any reason after receipt of said written notice of completion from the Owner the Committee fails to notify the Owner of any noncompliance within the period provided above, the improvement shall be deemed to be in accordance with said approved Plans and Specifications.

i) Work in Progress. The Committee may inspect all work in progress and give notice of noncompliance as provided above. If the Owner denies that such noncompliance exists, the procedure set out above shall be followed, except that no further work shall be done, pending resolution of the dispute, which would hamper correction of the noncompliance if the Management Committee shall find that such noncompliance exists.

j) Non-Liability of Committee Members. Neither the Committee nor any member thereof nor the Management Committee nor any member thereof shall be liable to the COMMUNITY ASSOCIATION or to any owner or to any other person for any loss, damage, or injury arising out or in any way connected with the performance of the Committee's or the Management Committee's respective duties under this Declaration unless due to the willful misconduct or bad faith of the Committee or its Members or the Management Committee or its members, as the case may be. The Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes, materials and similar features, but shall not be responsible for reviewing, nor shall its approval or any Plans and Specifications be deemed approved thereof from the standpoint of structural safety, engineering soundness, or conformance with building or other codes.

50. Architectural Review Over Adjacent Project. The Declarant, in its discretion, may assign to the Design Review Committee or ARC responsibility for reviewing plans for proposed construction or modifications on Project adjacent to or in the vicinity of the Project which are subject to restrictive covenants imposed by the Declarant. In such event, the Design Review Committee or ARC may charge reasonable fees for review and shall conduct any such review pursuant to any relevant provisions of such restrictive covenants and any design guidelines pertaining to the subject Project. The Design Review Committee or ARC shall have no authority over construction or modifications on such Project unless and until designated by the Declarant in writing. The Declarant's rights under such restrictive covenants may be assigned to the COMMUNITY ASSOCIATION, which shall be obligated to accept and abide by the terms of such assignment.

51. Agent for Service of Process. After the expiration of the Period of Declarant's Control, the President of the COMMUNITY ASSOCIATION shall be the person to receive service of process in the cases authorized by the Act and the office; however, the initial Registered Agent shall be Wayne Corbridge and the initial office of the Registered Agent shall be 758 South 400 East, #203, Orem, Utah 84097.

52. Effective Date. This Declaration, any amendment or supplement hereto, and any amendment or supplement to the Plat Map shall take effect upon its being filed for record in the office of the County Recorder of Salt Lake County, Utah.

53. Duration. These restrictive covenants shall run with the land and shall be binding upon the owners thereof, their heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years.

EXECUTED the 16 day of November, 1999.

DECLARANT:
SADDLEBACK PROPERTY, L.C.
a Utah limited liability company

By: *Wayne Corbridge*
Title: Wayne Corbridge, Manager

STATE OF UTAH)
)ss.
COUNTY OF UTAH)

On the 16 day of November, 1999 personally appeared before me Wayne Corbridge, who by me being duly sworn, did say that he is the Manager of SADDLEBACK PROPERTY, L.C., a Utah limited liability company, and that the within and foregoing instrument was signed in behalf of said company pursuant to the resolution of its Members or its Articles of Organization, and said Wayne Corbridge duly acknowledged to me that said company executed the same.

Krisel P. Travis
NOTARY PUBLIC
Residing At: London, UT

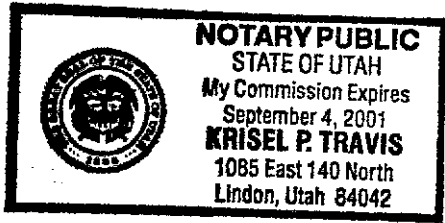


EXHIBIT "A"
LEGAL DESCRIPTION

The Land comprising the Project described in the foregoing Declaration is located in Utah County, Utah and is described more particularly as follows:

BEGINNING AT A POINT LOCATED SOUTH 1279.72 FEET AND EAST 113.26 FEET FROM THE NORTH QUARTER CORNER OF SECTION 29, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN;

THENCE ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE LEFT 21.26 FEET, (CURVE HAS A CENTRAL ANGLE OF 81°13'33" AND A CHORD BEARING S 40°10'14" E 19.53 FEET); THENCE S 80°47'01" E 14.70 FEET; THENCE ALONG THE ARC OF A 320.00 FOOT RADIUS CURVE TO THE LEFT 367.41 FEET, (CURVE HAS A CENTRAL ANGLE OF 65°47'02" AND A CHORD BEARING N 66°19'28" E 347.56 FEET); THENCE N 33°25'57" E 169.84 FEET; THENCE ALONG THE ARC OF A 430.00 FOOT RADIUS CURVE TO THE RIGHT 403.17 FEET, (CURVE HAS A CENTRAL ANGLE OF 53°43'16" AND A CHORD BEARING N 60°17'35" E 388.57 FEET); THENCE N 87°09'13" E 151.70 FEET; THENCE ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE LEFT 22.54 FEET, (CURVE HAS A CENTRAL ANGLE OF 86°06'19" AND A CHORD BEARING N 44°06'04" E 20.48 FEET); THENCE S 88°57'06" E 60.00 FEET; THENCE ALONG THE ARC OF A 320.00 FOOT RADIUS CURVE TO THE LEFT 308.04 FEET, (CURVE HAS A CENTRAL ANGLE OF 55°09'17" AND A CHORD BEARING S 26°31'44" E 296.29 FEET); THENCE S 54°06'23" E 375.66 FEET; THENCE S 35°53'37" W 60.00 FEET; THENCE ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE LEFT 23.56 FEET, (CURVE HAS A CENTRAL ANGLE OF 90°00'00" AND A CHORD BEARING S 80°53'37" W 21.21 FEET); THENCE S 35°53'37" W 50.00 FEET; THENCE S 41°36'17" W 50.25 FEET; THENCE S 35°53'37" W 170.00 FEET; THENCE N 54°06'23" W 60.00 FEET; THENCE ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE LEFT 23.56 FEET, (CURVE HAS A CENTRAL ANGLE OF 90°00'00" AND A CHORD BEARING N 09°06'23" W 21.21 FEET); THENCE N 54°06'23" W 145.49 FEET; THENCE ALONG THE ARC OF A 100.00 FOOT RADIUS CURVE TO THE LEFT 71.22 FEET, (CURVE HAS A CENTRAL ANGLE OF 40°48'26" AND A CHORD BEARING N 74°30'36" W 69.73 FEET); THENCE ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE LEFT 18.40 FEET, (CURVE HAS A CENTRAL ANGLE OF 70°16'11" AND A CHORD BEARING S 49°57'06" W 17.27 FEET); THENCE N 75°11'00" W 50.00 FEET; THENCE ALONG THE ARC OF A 100.00 FOOT RADIUS CURVE TO THE LEFT 120.29 FEET, (CURVE HAS A CENTRAL ANGLE OF 68°55'23" AND A CHORD BEARING N 19°38'41" W 113.17 FEET); THENCE N 54°06'23" W 76.14 FEET; THENCE ALONG THE ARC OF A 100.00 FOOT RADIUS CURVE TO THE LEFT 188.99 FEET, (CURVE HAS A CENTRAL ANGLE OF 108°17'10" AND A CHORD BEARING S 71°45'02" W 162.10 FEET); THENCE N 72°23'32" W 50.00 FEET; THENCE ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE LEFT 19.42 FEET, (CURVE HAS A CENTRAL ANGLE OF 74°10'30" AND A CHORD BEARING N 19°28'47" W 18.09 FEET); THENCE N 56°34'03" W 206.47 FEET; THENCE ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE LEFT 23.56 FEET, (CURVE HAS A CENTRAL ANGLE OF 90°00'00" AND A CHORD BEARING S 78°25'57" W 21.21 FEET); THENCE S 33°25'57" W 47.06 FEET; THENCE ALONG THE ARC OF A 380.00 FOOT RADIUS CURVE TO THE RIGHT 436.29 FEET, (CURVE HAS A CENTRAL ANGLE OF 65°47'00" AND A CHORD BEARING S 66°19'29" W 412.72 FEET); THENCE N 80°47'01" W 14.00 FEET; THENCE ALONG THE ARC OF A 15.00 RADIUS CURVE TO THE LEFT 22.29 FEET, (CURVE HAS A CENTRAL ANGLE OF 85°09'28" AND A CHORD BEARING S 56°38'16" W 20.30 FEET); THENCE N 14°03'32" E 20.17 FEET; THENCE ALONG THE ARC OF A 280.00 FOOT RADIUS CURVE TO THE LEFT 66.54 FEET, (CURVE HAS A CENTRAL ANGLE OF 13°36'58" AND A CHORD BEARING N 07°15'01" E 66.38 FEET TO THE POINT OF BEGINNING.

A PARCEL CONTAINING 9.20 ACRES.

EXHIBIT "B"

<u>Phase I</u>	<u>Lot No.</u>	<u>Fractional Interest</u>	<u>Percentage of Ownership Interest</u>
1	1	1/32	3.125%
1	2	1/32	3.125%
1	3	1/32	3.125%
1	4	1/32	3.125%
1	5	1/32	3.125%
1	6	1/32	3.125%
1	7	1/32	3.125%
1	8	1/32	3.125%
1	9	1/32	3.125%
1	10	1/32	3.125%
1	11	1/32	3.125%
1	12	1/32	3.125%
1	13	1/32	3.125%
1	14	1/32	3.125%
1	15	1/32	3.125%
1	16	1/32	3.125%
1	17	1/32	3.125%
1	18	1/32	3.125%
1	19	1/32	3.125%
1	20	1/32	3.125%
1	21	1/32	3.125%
1	22	1/32	3.125%
1	23	1/32	3.125%
1	24	1/32	3.125%
1	25	1/32	3.125%
1	26	1/32	3.125%
1	27	1/32	3.125%
1	28	1/32	3.125%
1	29	1/32	3.125%
1	30	1/32	3.125%
1	31	1/32	3.125%
1	32	1/32	3.125%
TOTAL:			100.00%

EXHIBIT 4

SPECIAL CONDITIONS