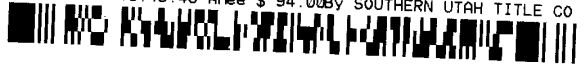


DOC # 20060056126

RestrictivePage 1 of 43
Russell Shirts Washington County Recorder
12/05/2006 10:49:45 AM Fee \$ 94.00 By SOUTHERN UTAH TITLE CO



Note to Recorder:
Record against the real property
located in Washington County,
Utah described in Exhibit A.

Recorded at the Request of:
Desert Fields, LLC

After recording mail to:
Dixon, Truman & Fisher, PC
20 North Main Street, Suite 205
St. George, UT 84770

DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS AND RESERVATION OF EASEMENTS
FOR
DESERT FIELDS SUBDIVISION

DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS AND RESERVATION OF EASEMENTS
FOR
DESERT FIELDS SUBDIVISION
Table of Contents

PREAMBLE	1
RECITALS	1
ARTICLE I	1
DEFINITIONS	1
1.1 <u>ACC</u>	1
1.2 <u>ACC Rules and Regulations</u>	2
1.3 <u>Annual Assessment</u>	2
1.4 <u>Articles</u>	2
1.5 <u>Association</u>	2
1.6 <u>Beneficiary</u>	2
1.7 <u>Board</u>	2
1.8 <u>Budget</u>	2
1.9 <u>Bylaws</u>	2
1.10 <u>Corrective Assessments</u>	2
1.11 <u>Common Area</u>	2
1.12 <u>Common Expenses</u>	2
1.13 <u>Declarant</u>	3
1.14 <u>Deed of Trust</u>	3
1.15 <u>Development</u>	3
1.16 <u>Dwelling Unit</u>	3
1.17 <u>Fiscal Year</u>	3
1.18 <u>Improvement</u>	3
1.19 <u>Lot</u>	3
1.20 <u>Manager</u>	3
1.21 <u>Member, Membership</u>	3
1.22 <u>Mortgage, Mortgagee, Mortgagor</u>	3
1.23 <u>Notice of Members Meeting</u>	4
1.24 <u>Owner</u>	4
1.25 <u>Person</u>	4
1.26 <u>Plat</u>	4
1.27 <u>Property</u>	4
1.28 <u>Record, Recorded, Filed or Recordation</u>	4
1.29 <u>Rules and Regulations</u>	4
1.30 <u>Recreational Vehicles</u>	4
1.31 <u>Special Assessments</u>	4
1.32 <u>Streets</u>	4
1.33 <u>Vehicle</u>	5
ARTICLE IA	5
DESCRIPTION OF PROPERTY	5
ARTICLE II	5
OWNERS' PROPERTY RIGHTS	5
2.1 <u>Common Area</u>	5

2.2	<u>Form for Conveyancing</u>	5
2.3	<u>Transfer of Title to Common Area</u>	6
2.4	<u>Limitations on Common Area Easement</u>	6
2.5	<u>Easements for Public Service Use</u>	7
2.6	<u>Waiver</u>	7
2.7	<u>Easements for Water and Utility Purposes</u>	7
2.8	<u>Taxes</u>	7
2.9	<u>Washington County Water Conservancy District Impact Fee</u>	7
2.10	<u>Easement for Encroachments</u>	7
ARTICLE III		7
DESERT FIELDS HOMEOWNERS ASSOCIATION		7
3.1	<u>Organization of Association</u>	7
3.2	<u>Parties and Powers</u>	8
3.3	<u>Membership</u>	8
3.4	<u>Transfer</u>	8
ARTICLE IV		8
VOTING RIGHTS		8
4.1	<u>Vote Distribution</u>	8
	(a) <u>Class A</u>	8
	(b) <u>Class B</u>	8
4.2	<u>Multiple Ownership</u>	8
ARTICLE V		9
JURISDICTION OF ASSOCIATION		9
ARTICLE VI		9
COVENANT FOR ASSESSMENTS		9
6.1	<u>Creation of Assessment Obligation</u>	9
6.2	<u>Purpose of Annual and Special Assessments</u>	9
6.3	<u>Annual Assessments</u>	9
6.4	<u>Special Assessments</u>	10
	(a) <u>Capital Improvements</u>	10
	(b) <u>Extraordinary Expenses</u>	10
6.5	<u>Uniform Rate of Assessment</u>	10
6.6	<u>Date of Commencement of Annual Assessments</u>	10
6.7	<u>Corrective Assessments</u>	11
6.8	<u>Exempt Property</u>	11
6.9	<u>Notice of Members Meetings: Quorum Requirements</u>	11
6.10	<u>Additional Assessments</u>	11
6.11	<u>Preparation of Budget</u>	11
6.12	<u>Reserve Fund</u>	12
ARTICLE VII		12
NONPAYMENT OF ASSESSMENTS; REMEDIES		12
7.1	<u>Nonpayment of Assessments; Remedies</u>	12
7.2	<u>Washington County Tax Collection</u>	12
7.3	<u>Lien</u>	12
7.4	<u>Trust Deed for Assessment</u>	13
7.5	<u>Perfection of Lien and Priority</u>	13
7.6	<u>Future Lease Payments</u>	13
7.7	<u>Statement of Account</u>	14
7.8	<u>Payment by Encumbrancer</u>	14

7.9	<u>Cumulative Remedies</u>	14
7.10	<u>Mortgage Protection</u>	14
7.11	<u>Rent after Foreclosure</u>	14
ARTICLE VIII		14
ARCHITECTURAL CONTROL		14
8.1	<u>Members of Committee</u>	14
8.2	<u>ACC General Powers</u>	15
8.3	<u>Review of Plans and Specifications</u>	15
8.4	<u>Meetings of the ACC</u>	15
8.5	<u>No Waiver of Future Approvals</u>	16
8.6	<u>Compensation of Members</u>	16
8.7	<u>Limitation on Liability</u>	16
8.8	<u>Declarant's Rights</u>	16
ARTICLE IX		16
MAINTENANCE AND REPAIR OBLIGATIONS		16
9.1	<u>Maintenance by Owner</u>	16
9.2	<u>Operation and Maintenance by Association</u>	17
9.3	<u>Party Walls</u>	17
	(a) <u>General Rules of Law to Apply</u>	17
	(b) <u>Sharing of Repair and Maintenance</u>	17
	(c) <u>Destruction by Fire or Other Casualty</u>	17
	(d) <u>Weatherproofing</u>	17
	(e) <u>Right to Contribution Runs with Land</u>	17
	(f) <u>Arbitration</u>	17
9.4	<u>Perimeter Walls</u>	17
9.5	<u>Mold</u>	17
ARTICLE X		18
ARCHITECTURAL GUIDELINES AND DESIGN RESTRICTIONS		18
10.1	<u>Purpose and Intent</u>	18
10.2	<u>Single Family Residence</u>	18
10.3	<u>Business or Commercial Activity</u>	18
10.4	<u>Signs: Commercial Activity</u>	18
10.5	<u>No Hazardous Activities</u>	19
10.6	<u>Parking for Outdoor Vehicles</u>	19
10.7	<u>Animals</u>	19
10.8	<u>Construction</u>	19
	(a) <u>Commencement and Completion of Construction</u>	19
	(b) <u>Building Materials Storage</u>	19
	(c) <u>Landscaping</u>	20
	(d) <u>Soils Test</u>	20
	(e) <u>Damages</u>	20
	(f) <u>Maintenance of Lot during Construction</u>	20
10.9	<u>Temporary Buildings</u>	20
10.10	<u>Fences and Sight Obstructions</u>	20
10.11	<u>Drilling</u>	20
10.12	<u>Minimum Square Footage Required</u>	21
10.13	<u>Types of Homes Prohibited</u>	21
10.14	<u>Exteriors of Homes</u>	21
10.15	<u>Roofs and Roofing Materials</u>	21
10.16	<u>Colors</u>	21
10.17	<u>Setbacks</u>	21
10.18	<u>Building Height</u>	22

10.19	<u>Garages</u>	22
10.20	<u>Driveways</u>	22
10.21	<u>Accessory Buildings</u>	22
10.22	<u>Landscaping</u>	22
10.23	<u>Planting and Gardening</u>	23
10.24	<u>Separation and Interior Lot Walls</u>	23
10.25	<u>Walls, Fences and Barriers</u>	24
10.26	<u>Retaining Walls</u>	24
10.27	<u>City of Washington Requirements</u>	24
10.28	<u>Further Subdivision; Lease Provisions</u>	24
10.29	<u>Drainage</u>	25
10.30	<u>Easements</u>	25
10.31	<u>Lateral and Subjacent Support and Drainage</u>	26
10.32	<u>Water Supply and Sewage Disposal System</u>	26
10.33	<u>Trash Receptacles</u>	26
10.34	<u>Light</u>	26
10.35	<u>External Apparatus</u>	26
10.36	<u>Utility Meters</u>	26
10.37	<u>Mailboxes</u>	26
10.38	<u>Exception for Declarant</u>	27
10.39	<u>FCC Antenna and Dish Policy</u>	27
	(a) <u>Types of Antennas</u>	27
	(b) <u>Location and Installation</u>	27
	(c) <u>Maintenance</u>	28
	(d) <u>FCC Notice</u>	29
	(e) <u>Notification</u>	29
	(f) <u>Enforcement</u>	29
	(g) <u>Severability</u>	29
ARTICLE XI		30
DAMAGE AND CONDEMNATION		30
ARTICLE XII		30
INSURANCE		30
12.1	<u>Insurance on Lots and Homes</u>	30
12.2	<u>Assessments</u>	30
12.3	<u>Required Insurances</u>	30
	(a) <u>Multi-Peril Coverage</u>	30
	(b) <u>Broad-Form Public Liability Coverage</u>	30
	(c) <u>Fidelity Coverage</u>	31
12.4	<u>Additional Provisions</u>	31
	(a) <u>Approval Policies</u>	31
	(b) <u>Contribution</u>	31
	(c) <u>Flood Insurance</u>	31
	(d) <u>Premiums Maintained in the Name of the Association as Trustee</u>	31
	(e) <u>Review of Insurance Policies</u>	31
	(f) <u>Rebuilding after Damage or Destruction</u>	31
ARTICLE XIII		32
MORTGAGEE PROTECTION CLAUSE		32
13.1	<u>Preservation of Regulatory Structure and Insurance</u>	32
13.2	<u>Preservation of Common Area; Change in Method of Assessment</u>	32
13.3	<u>Notice of Matters Affecting Security</u>	32

13.4	<u>Notice of Meetings</u>	33
13.5	<u>Right to Examine Association Records</u>	33
13.6	<u>Right to Pay Taxes and Charges</u>	33
13.7	<u>Rights upon Foreclosure of Mortgagee</u>	33
ARTICLE XIV		33
GENERAL PROVISIONS		33
14.1	<u>Enforcement</u>	33
14.2	<u>Severability</u>	34
14.3	<u>Term</u>	34
14.4	<u>Interpretation</u>	34
14.5	<u>Amendment</u>	34
14.6	<u>Declarant's Rights Assignable</u>	35
14.7	<u>Notice</u>	35
14.8	<u>Manager</u>	35
14.9	<u>Terms of Management Agreement</u>	35
14.10	<u>Rules and Regulations</u>	35

DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS AND RESERVATION OF EASEMENTS
FOR
DESERT FIELDS SUBDIVISION

PREAMBLE

This Declaration of Covenants, Conditions and Restrictions and Reservations of Easements for Desert Fields Subdivision affects the real property set forth in Article IA below located in Washington County, State of Utah. The terms contained in this Preamble and the Recitals below, which are hereafter defined in Article I, shall be given the meaning assigned to them in Article I.

RECITALS

A. R & K Staheli Farms and Desert Fields, LLC, a Utah limited liability company, as Declarant, have developed the real property described in Exhibit "A" as a residential development.

B. Declarant has established or will establish Desert Fields Homeowners Association and the Association will be vested with powers of owning, maintaining and administering the Common Area, administering and enforcing the covenants and restrictions pertaining to the Property, promulgating Rules and Regulations through its Board and Architectural Control Committee, and collecting and disbursing the assessments and charges hereinafter created.

C. The Declarant intends that the Property be maintained, developed and conveyed pursuant to a general plan for the Property and subject to certain protective covenants, easements, equitable servitudes, liens and charges, all running with the Property as hereinafter set forth.

D. The Declarant hereby declares that all of the Property will be maintained, held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following easements, restrictions, reservations, rights, covenants, conditions and equitable servitudes, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Property, in furtherance of a general plan for the protection, maintenance, subdivision, improvement, and sale of the Property or any portion thereof. The covenants, conditions, restrictions, rights, reservations, easements, and equitable servitudes set forth herein shall run with and burden the Property and shall be binding upon all persons having or acquiring any right, title, or interest in the Property, or any part thereof, their heirs, successors and assigns; shall inure to the benefit of every portion of the Property and any interest therein; and shall inure to the benefit of and be binding upon and may be enforced by Declarant, the Association, as hereinafter defined, each owner and their respective heirs, executors and administrators, and successors and assigns. This document shall supersede and replace the Covenants, Conditions and Restrictions recorded against the Property on June 29, 2006, Entry No. 200600028340.

E. These Recitals shall be deemed covenants as well as recitals.

ARTICLE I
DEFINITIONS

Unless otherwise expressly provided, the following words and phrases when used herein shall have the meanings hereinafter specified.

1.1 ACC. ACC means the Architectural Control Committee created pursuant to Article VIII

hereof.

1.2 ACC Rules and Regulations. ACC Rules and Regulations mean such rules and regulations as may be adopted and promulgated by the ACC pursuant to Sections 8.1 and 8.4 hereof as such rules and regulations may be amended from time to time.

1.3 Annual Assessment. Annual Assessment means the annual charge against each Owner and his Lot, representing a portion of the Common Expenses, which are to be paid by each Owner to the Association in the manner and proportions provided herein.

1.4 Articles. Articles mean the Articles of Incorporation of the Association filed in the office of the Department of Commerce of the State of Utah, as such Articles maybe amended from time to time.

1.5 Association. Association means DESERT FIELDS HOMEOWNERS ASSOCIATION, a corporation formed under the Nonprofit Corporation Law of the State of Utah, its successors and assigns.

1.6 Beneficiary. Beneficiary means a mortgagee under a mortgage or a beneficiary under a deed of trust, as the case may be, and the assignees of such mortgagee or beneficiary.

1.7 Board. Board means the Board of Directors of the Association, elected pursuant to the Bylaws of the Association.

1.8 Budget. Budget means a written, itemized estimate of the expenses to be incurred by the Association in performing its functions under this Declaration.

1.9 Bylaws. Bylaws mean the Bylaws of the Association, as adopted by the Board, as such Bylaws may be amended by the Board from time to time.

1.10 Corrective Assessments. Corrective Assessments mean a charge against a particular Owner and his Lot representing the costs to the Association for corrective action set forth in Sections 2.8, 9.1, and 14.9, Article XI, and as otherwise provided for herein.

1.11 Common Area. Common Area means all real property (including the improvements thereto and facilities thereon) owned or hereafter acquired by the Association for the common use and enjoyment of the Members and includes that portion of Property owned by the Association, shown on the Plat as Common Area. Common Area is dedicated to the common use and enjoyment of the Owners, and is not dedicated for the use of the general public, except as specifically determined by the Board. Specifically exempted from Common Area are Lots that are identified on the Plat. Common Area shall also include all land in which the Association has an easement right.

1.12 Common Expenses. Common Expenses mean those expenses for which the Association is responsible under this Declaration, including the actual and estimated costs of: maintenance, management, operation, repair, replacement and improvement of the Common Area; costs of management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and other employees; the costs of all utilities, certain landscaping and Improvements on the Common Area, gardening, against the Property, or portions thereof; and the costs of any other items incurred by the Association for any reason whatsoever, in connection with the Property, for the benefit of all of the Owners.

1.13 Declarant. Until the recording of the Plat for Desert Fields Subdivision, Declarant means and refers to R & K Staheli Farms and Desert Fields, LLC, a Utah limited liability company. After the recording of the Plat for Desert Fields Subdivision, Declarant shall mean and refer to Desert Fields, LLC and/or any successors thereto which, either by operation of law or through a voluntary conveyance, transfer, or assignment, comes to stand in the same relationship to the Project., except that a party acquiring all or substantially all of the right, title and interest of Desert Fields, LLC in the Property by foreclosure, judicial sale, bankruptcy proceedings, or by other similar involuntary transfer, shall automatically be deemed a successor and assign of Desert Fields, LLC as Declarant under this Declaration.

1.14 Deed of Trust. Deed of Trust means a mortgage or a deed of trust as the case may be.

1.15 Development. Development means DESERT FIELDS SUBDIVISION according to the Plat.

1.16 Dwelling Unit. Dwelling Unit means a single family dwelling, with or without walls or roofs in common with other single family dwelling. Dwelling Unit includes fee title to the real property lying directly beneath the single family dwelling, within Lot boundary lines.

1.17 Fiscal Year. Fiscal Year means the fiscal accounting and reporting period of the Association selected by the Board from time to time.

1.18 Improvement. Improvement means any structure or appurtenance thereto of every type and kind, including but not limited to Dwelling Units and other buildings, walkways, sprinkler pipes, swimming pools, athletic fields or areas, garages, roads, driveways, parking areas, fences, screening walls, block walls, retaining walls, stairs, decks, landscaping, ponds, antennae, hedges, wind-breaks, patio covers, railings, plantings, planted trees and shrubs, poles, signs, storage areas, exterior air conditioning and water-softening fixtures or equipment.

1.19 Lot. Lot means a separately numbered and individually described plot of land shown on the Plat designated as a Lot for private ownership, but specifically excludes any Common Area.

1.20 Manager. Manager means the Person appointed by the Association, if any, hereunder as its agent and delegated certain duties, powers or functions of the Association as further provided in this Declaration and in the Bylaws.

1.21 Member, Membership. Member means any Person holding a membership in the Association, as provided in this Declaration. Membership means the property, voting and other rights and privileges of Members as provided herein, together with the correlative duties and obligations contained in this Declaration and the Articles, Bylaws and Rules and Regulations.

1.22 Mortgage, Mortgagee, Mortgagor. Mortgage means any Recorded first mortgage or first deed of trust. The term "Deed of Trust" or "Trust Deed" when used herein is synonymous with the term "Mortgage." The term Mortgagee means a person or entity to whom a Mortgage is made and includes the beneficiary of a Deed of Trust. Mortgagor means a Person who mortgages his, her, or its Lot to another (i.e., the maker of a Mortgage), and includes the Trustee of a Deed of Trust. The term "Trustor" is synonymous with the term "Mortgagor," and the term "Beneficiary" is synonymous with the term "Mortgagee."

1.23 Notice of Members Meeting. Members shall cause notice of meetings of the Members required or provided for in this Declaration to be in writing, to satisfy the notice requirements set forth in the Bylaws, and to be delivered either personally or by first class or registered mail. The party responsible for delivery of Notice of Members Meetings shall cause such notice to be delivered at least 15 days but not more than 30 days prior to the date of the meeting of the Members. Notwithstanding the foregoing, notice given by other means shall be deemed fair and reasonable if given in accordance with the Utah Revised Nonprofit Corporation Act.

1.24 Owner. Owner means the entity, person, or group of persons who is the owner of record (in the office of the County Recorder of Washington County, Utah) of a fee simple or an undivided fee simple interest in any Lot that is within the Property. Regardless of the number of parties participating in ownership of each Lot, the group of those parties shall be treated as one "Owner." The term "Owner" includes contract purchasers but does not include persons who hold an interest merely as security for the performance of an obligation unless and until title is acquired by foreclosure or similar proceedings. Membership is appurtenant to and may not be separated from Lot ownership.

1.25 Person. Person shall mean a natural individual or any other entity with the legal right to hold title to real property.

1.26 Plat. Plat means the plat recorded herewith entitled "DESERT FIELDS SUBDIVISION", consisting of 1 sheet, executed and acknowledged by Declarant, prepared and certified by the engineer, recorded in the records of the Washington County Recorder, as the same has been modified, amended, supplemented or expanded in accordance with the provisions of Article XIV concerning amendments or supplements to this Declaration in conjunction with annexations to the Property as herein provided.

1.27 Property. Property shall mean that certain real property hereinbefore described that is subjected to this Declaration.

1.28 Record, Recorded, Filed or Recordation. Record, Recorded, Filed or Recordation means, with respect to any document, the recordation of such document in the office of the County Recorder of Washington County, Utah.

1.29 Rules and Regulations. Rules and Regulations means rules and regulations as may be adopted and promulgated by the Board pursuant to the Bylaws and this Declaration, as the Board deems necessary or desirable (i) to aid it in administering the affairs of the Association, (ii) to insure that the Property is maintained and used in a manner consistent with the interests of the Owners, (iii) to regulate the use of the Common Areas and to regulate the personal conduct of the Members and their guests thereon, and (iv) to establish penalties for the infractions thereof, as such rules and regulations may be amended from time to time.

1.30 Recreational Vehicles. Recreational Vehicles means all watercraft, travel trailers, campers, camper shells, tent trailers, motor homes, snowmobiles, all-terrain-vehicles and off-highway-vehicles (ATVs and OHVs, respectively), dune buggies, or devices similar to any of the foregoing.

1.31 Special Assessments. Special Assessments means a charge against each Owner and his Lot, representing a portion of the costs to the Association of defraying any extraordinary expenses incurred or special projects approved as set forth in Article VI.

1.32 Streets. Streets shall mean public streets and thoroughfares on the Property.

1.33 Vehicle. Vehicle means any and all equipment or device (mobile or immobile, operable or inoperable) of any type, designed to transport persons, objects or designed to be transported on wheels, skids, skis or tracks, including, without limitation, dump trucks, cement mixer trucks, gas trucks, delivery trucks, buses, aircraft, trailers, Recreational Vehicles, minivans, cars, pickup trucks, motorcycles, other devices or equipment similar to any of the foregoing, whether or not used for daily transportation.

ARTICLE IA

DESCRIPTION OF PROPERTY

The real property which is associated with the Development and which has been and shall hereafter continue to be held, transferred, sold, conveyed and occupied subject to the provisions of this Declaration consists of all the following property

See "Exhibit A" attached hereto

TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the described parcel of real property,

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 effect the above-described land or any portion thereof, including without limitation, any Mortgage; all visible easements and rights-of-way; all easements and rights-of-way of record; any easements, rights-of-way, encroachments, or discrepancies otherwise existing; an easement for each and every pipe, line, cable, wire, utility line, or similar facility which traverses or partially occupies the above-described land at such time as construction of all Development improvements is complete; and all easements necessary for ingress to, egress from, maintenance of; and replacement of all such pipes, line, cables, wires, utility lines, and similar facilities.

ARTICLE II OWNERS' PROPERTY RIGHTS

2.1 Common Area. The Common Area shall consist of certain landscaping strips as marked on the Plat.

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

All of Lot _____ of DESERT FIELDS SUBDIVISION, according to the official Plat thereof, subject to the Declaration of Conditions, Covenants and Restrictions and Reservation of Easements, on file in the office of the Washington County Recorder.

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

2.3 Transfer of Title to Common Area. R & K Staheli Farms represents that he will, on or prior to the first conveyance of a Lot, convey to the Association title to all Common Area, and R & K Staheli Farms further agrees that he will discharge all liens and encumbrances on said Common Area on or before the sale and close of escrow of the last Lot.

2.4 Limitations on Common Area Easement. An Owner's right and easement of use and enjoyment concerning the Common Area shall be subject to the following:

(a) The right of the Association, to be exercised by its Board, to charge reasonable admission, use, service and other fees for the use of any service of the Association or provided upon the Common Area, or parking facility situated upon the Common Area. No fees shall be charged for parking specifically designated on the Plat as appurtenant to a Lot.

(b) The right of the Association, to be exercised by its Board, to limit the number of guests of Members using the Common Area.

(c) The right of the Association, to be exercised by its Board, to suspend the voting rights and/or common utility service of a Member for any period during which any assessment or portion thereof against the Member's Lot remains unpaid; and for a period of not to exceed sixty (60) days for any infraction of its published rules and regulations.

(d) The right of the Association, to be exercised by its Board, to enter into agreements or leases which provide for use of the Common Areas and facilities by a similar Association in consideration for use of the Common Areas and facilities of the other Association, or for cash consideration.

(e) If there is no Class B Membership, the right of the Association, with the approval of sixty-seven percent (67%) of the Membership, to sell, exchange, hypothecate, alienate, mortgage, encumber, dedicate, release or transfer all or part of the Common Area to any private individual, corporate entity, public agency, authority, or utility subject to the provisions of Article XIII.

(f) The right of the Association, to be exercised by its Board, to grant easements for public utilities or other public purposes consistent with the intended use of the Common Area by the Association.

(g) The right of the Association, to be exercised by its Board, to take such steps as are reasonably necessary or desirable to protect the Common Area against foreclosure.

(h) The terms and conditions of this Declaration.

(i) The right of the Association, to be exercised by its Board, to adopt rules and regulations concerning use of the Common Area.

(j) The right of the Declarant to take such actions as it may deem necessary so long as the expansion of the Properties shall not be complete, including granting leases, easements, and modifying the improvements and design of the Common Area.

(k) The right of the Association, to be exercised by the Board, to reasonably restrict access to portions of the Common Area; and

(l) The easements reserved in Sections 2.5, 2.7 and 2.10.

2.5 Easements for Public Service Use. In addition to the foregoing easements over the Common Area, there shall be and Declarant hereby reserves and covenants for itself and all future owners within the Property, easements for public services of the City of Washington in which the Property are located, including but not limited to, the right of the police and fire departments to enter upon any part of the Common Area for the purpose of carrying out their official duties.

2.6 Waiver. No owner may exempt himself from personal liability for assessments duly levied by the Association nor release the Lot or other property owned by him from the liens and charges hereof.

2.7 Easements for Water and Utility Purposes. In addition to the foregoing easements over the Common Area, there shall be and Declarant hereby reserves and covenants for itself and all future Owners within the Property, easements for public and private utility purposes. The Lots shall also be subject to such public utility easements as shown on the Plat and as required by the City of Washington.

2.8 Taxes. Each Owner shall execute such instruments and take such action as may reasonably be specified by the Board to obtain separate real estate tax assessment of each Lot. If any taxes or assessments may, in the opinion of the Board, become a lien on the Common Area, or any part thereof, they may be paid by the Association as a Common Expense, and the Association may levy against the Lot as a Corrective Assessment any amounts paid by the Association to rectify the problem.

2.9 Washington County Water Conservancy District Impact Fee. An impact fee for water acquisition exists and is due and owing to the Washington County Water Conservancy District (the "Impact Fee") for each Lot. Except for R & K Staheli Farms, Desert Fields, LLC, and JP Investment Ventures, LLC, each Owner of any Lot by acceptance of a deed therefor from R & K Staheli Farms, Desert Fields, LLC, or JP Investment Ventures, LLC, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association an amount equal to the Impact Fee, which must be paid to the Association at the time that the document conveying title to the Owner is recorded. In conjunction with the conveyance of any Lot to an Owner, the Owner shall deposit with a title company selected by Declarant an amount equal to the then prevailing Impact Fee for the Lot, which at the time of this Declaration is a minimum of \$4,337.00, which shall be delivered forthwith by the title company to the Association to be paid to the Washington County Water Conservancy District. The Impact Fee, together with interest, costs and attorneys' fees for the collection thereof, shall be a charge on the Lot and shall be a continuing lien upon the Lot and shall also be and remain the personal obligation of the Person who became the Owner of the Lot upon the conveyance of the title. The nonpayment of the Impact Fee and the enforcement and remedies available to the Association for an Owner's nonpayment shall be governed by Article VII below, just as if the Impact Fee were an assessment. Declarant shall have the rights available to the Association under this provision and Article VII to enforce and collect the payment of the Impact Fee.

2.10 Easement for Encroachments. If any portion of a Dwelling Unit or other Improvement constructed by Declarant, or if any portion of a Dwelling Unit or other Improvement reconstructed so as to substantially duplicate the Dwelling Unit or other Improvement originally constructed by Declarant, encroaches upon the Common Areas or other Lots, as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the Property, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists.

ARTICLE III
DESERT FIELDS HOMEOWNERS ASSOCIATION

3.1 Organization of Association. Declarant has caused or will cause the Association to be

organized and the Articles filed with the State of Utah, Department of Commerce, Division of Corporations and Commercial Code.

3.2 Parties and Powers. The Association shall have such duties and powers as set forth in the Articles, Bylaws, and this Declaration (and such other powers and duties as properly delegated or assigned through the Rules and Regulations), as such documents are amended from time to time.

3.3 Membership. Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory and shall be appurtenant to the Owner's Lot.

3.4 Transfer. Membership in the Association is nontransferable and shall not be separated from the Lot to which it appertains.

ARTICLE IV VOTING RIGHTS

4.1 Vote Distribution. The Association shall have the following two classes of voting membership:

(a) Class A. Class A Members shall be all Owners of lots within Desert Fields Subdivision, with the exception of Desert Fields, LLC, and R & K Staheli Farms. Class A Members shall be entitled to one (1) vote for each Lot owned, except that when more than one person or entity owns an interest in any Lot, the Membership for such Lot shall be shared among the Owners of that particular lot and the one (1) vote appurtenant to such Lot shall be exercised as they jointly determine, but in no event shall more than one vote be cast with respect to any such Lot.

(b) Class B. The Class B member is the Declarant. The Class B member is entitled to five (5) votes for each Lot owned. The Class B membership will cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(i) upon conveyance of all of the Lots owned by Desert Fields, LLC to purchasers; or

(ii) the surrender of Class B membership status by the express written consent of the Declarant.

If Developer shall exercise its option to add additional Lots by platting additional phases as provided in this Declaration, then at such time as additional subdivision plats are recorded at the County Recorder's Office, the voting shall be adjusted accordingly, so that Declarant regains Class B voting status for all Lots owned, even if previously converted to Class A status in prior phases and according to the terms hereof.

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

ARTICLE V
JURISDICTION OF ASSOCIATION

The Association has been organized to provide for the operation, maintenance, preservation and architectural control of the Property and Improvements, to administer the Common Areas of the Association, and to reasonably regulate the Members of the Association. The Association shall have jurisdiction and authority over the Property and the Members of the Association to the full extent allowed by law and also as provided for in this Declaration and in the Articles, Bylaws, and Rules and Regulations, as such documents may be modified from time to time.

ARTICLE VI
COVENANT FOR ASSESSMENTS

6.1 Creation of Assessment Obligation. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (1) Annual Assessments for Common Expenses, (2) Special Assessments, (3) Corrective Assessments, and (4) any other amount or assessment levied by the Board pursuant to this Declaration; all such assessments to be established and collected as provided in this Declaration. The Association shall not levy or collect any Annual Assessment, Special Assessment or Corrective Assessment that exceeds the amount necessary for the purpose or purposes for which it is levied. All such assessments, together with interest, costs and reasonable attorneys' fees for the collection thereof, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, if applicable, shall also be and remain the personal obligation of the Person who was the Owner of such property at the time when the assessment fell due. This personal obligation cannot be avoided by abandonment of a Lot or by an offer to waive use of the Common Area. The personal obligation for delinquent assessments liability shall not pass to any new Owner ("Purchaser") successors in title unless expressly assumed by such Purchaser. For the purpose of assessment, the term "Owner" shall exclude the Declarant, builder, contractor, investor, or other person or entity who purchases a Lot for the purpose of constructing improvements thereon for resale to an Owner, who shall pay no assessment unless a unit constructed on a Lot is occupied for a permanent residence, provided that the Declarant or its assigns shall have the obligation to subsidize the Association until control of the Association passes to the Owners. Subsidization shall be defined as the payment of the reasonable cash needs of the Association for ordinary and necessary maintenance expenses (not including reserves or capital replacement). The determination of the reasonable cash needs for ordinary and necessary maintenance expenses shall be within the sole discretion of the Board and Declarant shall have no liability to the Association if subsequent Boards shall disagree with the determination of the Board which made such determination. In no event, however, shall the subsidy exceed the monthly assessments.

6.2 Purpose of Annual and Special Assessments. The assessments levied by the Association shall be used by the Association for the improvement, maintenance, repair and preservation of the landscape easement and any Common Area in the Property, as shown on the Plat. The assessments must provide for but are not limited to, the payment of taxes on Association property and insurance maintained by the Association; the payment of the cost of repairing, replacing and maintaining the Common Area; the payment of administrative expenses of the Association; insurance deductible amounts; the establishment of a reserve account for repair, maintenance and replacement of the Common Area which must be replaced on a periodic basis; and other amounts required that the Board shall determine to be necessary to meet the primary purposes of the Association.

6.3 Annual Assessments. Annual Assessments shall be used to satisfy Common Expenses of the Association, as provided herein and in the Bylaws. Until January 1 following recording of this Declaration, the maximum annual assessment shall be Fifteen Dollars (\$15.00) per Lot. This amount shall

be the basis of calculation for future maximum annual assessments.

(a) From and after the date referred to above, the maximum annual assessment may be increased each year by fifteen percent (15%) above the maximum assessment for the previous year without a vote of the membership.

(b) The Association may change the basis and maximum of the assessments fixed by this Section prospectively for any annual period provided that any such change shall have the assent of two-thirds (2/3) votes of Members, voting in person or by proxy, at a meeting duly called for this purpose.

6.4 Special Assessments. In addition to the Annual Assessment, a Special Assessment can be assessed to pay the costs of any one or more of the following:

(a) Capital Improvements. Special assessments may be levied to defray, in whole or in part, the cost of any construction, reconstruction, repair or replacement of the Common Area. Such assessments must have the assent of two-thirds (2/3) votes of Members voting in person or by proxy, at a meeting duly called for this purpose.

(b) Extraordinary Expenses. Special Assessments for the following extraordinary expenses can be levied by the Board without Member approval:

(i) an expenditure, in its discretion, required by an order of a court, or to settle litigation;

(ii) an expenditure necessary to repair or maintain the Property or any part of it for which the Association is responsible where a threat to personal safety on the Property is discovered; or

(iii) an expenditure necessary to repair, maintain or cover actual Association expenses for the Properties or any part of it that could not have been reasonably foreseen by the Board in preparing and distributing the pro forma operating budget, (for example: increases in utility rates; landscape or maintenance contract services; etc).

Prior to the imposition or collection of any Assessment due to an emergency situation, the Board shall pass a resolution containing the written findings as to the necessity of such expenditure and why the expenditure was not or could not have been reasonably foreseen or accurately predicted in the budgeting process and the resolution shall be distributed to the Members with the notice of the Assessment. If such expenditure was created by an unbudgeted utility maintenance or similar expense, increase, the Assessment created thereby shall be discontinued by the Board by a similar resolution, if such expense is subsequently reduced, or to the extent the next succeeding annual budget incorporates said increase into the annual assessment.

6.5 Uniform Rate of Assessment. Annual Assessments and Special Assessments imposed pursuant to subsections 6.2, 6.3, and 6.4(a) and (b) of this Declaration shall be assessed equally and uniformly against all Owners and their Lots, provided; however, that assessments shall not accrue against the Declarant or Lots owned by the Declarant.

6.6 Date of Commencement of Annual Assessments. Annual Assessments shall commence on all Lots on the first day of the first calendar month following the first Close of Escrow for the sale of a Lot in the Property. The first Annual Assessment shall be adjusted according to the number of months remaining in the Fiscal Year as set forth in the Bylaws. In the absence of a determination by the Board as to the amount of said assessment, the assessment shall be an amount equal to 90% of the maximum assessment provided in Section

6.3 above. At least thirty (30) days prior to the commencement of each new assessment period, the Board shall send or cause to be sent a written notice of the annual assessment to each Owner subject thereto. This notice shall not be a pre-requisite to validity of the assessment. The assessment shall be payable on an annual basis and the due dates shall be established by the Board. The Board shall prepare a roster of the properties and the assessments applicable thereto at the same time that it shall fix the amount of the assessment, which roster shall be kept by the Treasurer of the Association, who shall record payments of assessments and shall allow inspection of the roster by any member at reasonable times. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessment on a specified Lot has been paid. Such certificates, when properly issued, shall be conclusive evidence of the payment of any assessment or fractional part thereof which is therein shown to have been paid.

6.7 Corrective Assessments. In addition to the Annual Assessment and any Special Assessments, the Association may levy Corrective Assessments against a particular Owner and his Lot to pay the following: costs directly attributable to, or reimbursable by, that Owner, equal to the costs incurred by the Association for corrective action, performed pursuant to the provisions of this Declaration, including without limitation Sections 2.10, 8.7, 9.1, 14.9, and Article XI, plus interest and other charges on such Corrective Assessments. The Board shall deliver a Notice of Noncompliance by the Board and Right to Hearing to the Owner upon whom it intends to levy a Corrective Assessment. Corrective Assessments shall be due and payable within (45) days following delivery of Notice of Board Adjudication and shall bear interest thereafter at the rate of eighteen percent (18%) per annum until paid in full.

6.8 Exempt Property. The following property subject to this Declaration shall be exempt from the assessments herein:

- (a) All portions of the Property dedicated to and accepted by a local public authority;
- and
- (b) The Common Area.
 - (c) All Lots owned by Desert Fields, LLC.

6.9 Notice of Members Meetings; Quorum Requirements. Written notice of any meeting called for the purpose of taking any action authorized under Sections 6.3 or 6.4(a) above shall be sent to all Members not less than thirty (30) days, no more than sixty (60) days, in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty-seven percent (67%) of all outstanding votes of the Membership shall constitute a quorum. If the required quorum is not present, another meeting shall be called subject to the same notice requirement, and the required quorum of the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

6.10 Additional Assessments. In addition to the annual assessments, special assessments, and corrective assessments, the Association shall levy such additional assessments as may be necessary from time to time for the purpose of repairing and restoring the damage or disruption resulting to streets or other Common Area from the activities of Washington City (the "City") or other utility provider in maintaining, repairing or replacing the utility lines and facilities thereon. It is acknowledged that the ownership of said utility lines, underground or otherwise, is in the City or other utility provider up to and including the meters for individual units, and that they are installed and shall be maintained to City or utility provider specifications.

6.11 Preparation of Budget. The Board shall prepare a Budget to be presented to the Members at the annual meetings of the Members held as provided in the Bylaws.

6.12 Reserve Fund. The Board shall, on behalf of the Association, cause to be funded through Annual Assessments or other periodic assessments an adequate reserve to cover the cost of reasonably predictable and necessary major repairs and replacement to the Common Area.

ARTICLE VII
NONPAYMENT OF ASSESSMENTS; REMEDIES

7.1 Nonpayment of Assessments; Remedies. Pursuant to Utah Code Ann. §§ 57-8a-101, *et seq.* (2004), any assessment installment payment not paid when due shall, together with the hereinafter provided for interest and costs of collection, be, constitute, and remain a continuing lien on the Lot provided, however, that any such lien will be subordinate to the lien or equivalent security interest of any Mortgage on the Lot recorded prior to the date any such installment payment on assessments become due. If any installment payment on the assessment is not paid within thirty (30) days after the date on which it becomes due, the amount thereof shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum plus a late payment service charge of Twenty-Five Dollars (\$25.00) if the assessment is not paid within ten (10) days of when it is due, or such larger amount as set by the Board, provided the charge does not exceed twenty-five percent (25%) of the amount of the installment payment. The Association may, in its discretion, (a) bring an action at law against the Owner personally obligated to pay any such delinquent assessment without waiving the lien of assessment, or (b) may foreclose the lien against the Lot in accordance with the laws of the State of Utah applicable to the exercise of powers of sale in deeds of trust or to the foreclosure of mortgages, or in any other manner permitted by law, and/or (c) may restrict, limit, or totally terminate any or all services performed by the Association in behalf of the delinquent Owner. Any judgment obtained by the Association and any foreclosure commenced shall include reasonable attorney fees, court costs, and each and every other expense incurred by the Association in enforcing its rights. If a monthly installment payment is not timely made, the Board may declare the entire Annual Assessment in default and accelerate the Annual Assessment and declare the entire amount of the Annual Assessment immediately due and owing. A power of sale is hereby conferred upon the Association that it may exercise. Under the power of sale the Lot of an Owner may be sold in the manner provided by Utah law pertaining to deeds of trust as if said Association were beneficiary under a deed of trust. The Association may designate any person or entity qualified by law to serve as Trustee for purposes of power of sale foreclosure. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or by abandonment of the Lot.

7.2 Washington County Tax Collection. It is recognized that under the Charter the Association will own the Common Area and that it will be obligated to pay property taxes to Washington County. It is further recognized that each Owner of a Lot is a Member of the Association and as part of his assessment will be required to pay to the Association his pro rata share of such taxes. Notwithstanding anything to the contrary contained in this Charter, or otherwise, Washington County shall be, and is, authorized to collect such pro rata share (on an equal basis) of taxes directly from each Owner by inclusion of said share with the tax levied on each Lot. To the extent allowable, Washington County is hereby directed to do so. In the event that the assessor shall separately assess the Common Area to the Association, the Board may impose in its discretion a Special Assessment to pay such taxes, or they may be incorporated into the Annual Assessment.

7.3 Lien. The Board may elect to file a claim of lien against the Lot of the delinquent Owner by Recording a notice ("Notice of Lien") setting forth (a) the amount of the claim or delinquency, (b) the interest and costs of collections which have accrued thereon, (c) the legal description of the Lot against which the lien is claimed, and (d) the name of the Owner thereof. Such Notice of Lien shall be signed and

acknowledged by an officer of the Association or duly authorized agent of the Association. The lien shall continue until the amounts secured thereby and all subsequently accruing amounts are fully paid or otherwise satisfied. When all amounts claimed under the Notice of Lien and all other costs and assessments which may have accrued subsequent to the Notice of Lien have been fully paid or satisfied, the Association shall execute and Record a notice releasing the lien upon payment by the Owner of a reasonable fee as fixed by the Board to cover the cost of preparing and recording the release of lien. Unless paid or otherwise satisfied, the lien may be foreclosed in a like manner as a mortgage or any other manner provided by law, including without limitation, a deed of trust as set forth in this Charter.

7.4 Trust Deed for Assessments. By acceptance of a deed for a Lot, each Owner as Trustor conveys and warrants to Trustee in trust for the Association as Beneficiary, with power of sale, the Owner's Lot and all Improvements thereon for the purpose of securing payment of all assessments (including basis of collection) provided for in this Charter, For purposes of this Section and Utah Code Ann. §§ 57-1-19, *et seq.*, as amended from time to time. The Trustee means the attorney for the Association and the Association may provide notice and disclosure of the Trustee by recording an "Appointment of Trustee" on the records of the Washington County Recorder. Each Owner hereby also grants to the Association and Trustee all powers and rights of non judicial trust deed foreclosure provided for in Utah Code Ann. §§ 57-1-19, *et seq.*

7.5 Perfection of Lien and Priority. Upon the recording of Notice of Lien by the Manager or Board, such lien constitutes a lien on the Lot Owner's interest in the property prior to all other liens and encumbrances, recorded or unrecorded, except:

- (a) tax and special assessment liens on the Lot in favor of any assessing lot or special improvement district; and
- (b) encumbrances on the interest of the Lot Owner:
 - (i) recorded prior to the date of the recording of Notice of Lien; and
 - (ii) that by law would be a lien prior to subsequently recorded encumbrances.

The Manager or Board may enforce the assessment lien by sale or foreclosure of the Owner's interest. The Manager or Board may bid at a sale or foreclosure and hold, lease, mortgage, or convey the Lot that is subject to the assessment lien.

7.6 Future Lease Payments. If the Owner of a Lot who is leasing the Lot fails to pay an assessment for more than sixty (60) days after the assessment is due, the Board, upon compliance with this Section, may demand that the tenant pay to the Association all future lease payments due to the Owner, beginning with the next monthly or other periodic payment, until the amount due to the Association is paid. The Manager or Board shall give the Owner written notice of its intent to demand full payment from the tenant under this Section. The notice shall: (i) provide notice to the tenant that full payment of the remaining lease payments will begin with the next monthly or other periodic payment unless the assessment is received within the time period provided in the Charter, Bylaws, or Association Rules; (ii) state the amount of the assessment due, including any interest or late payment fee; (iii) state that any costs of collection, not to exceed One Hundred Fifty Dollars (\$150.00), and other assessments that become due may be added to the total amount due; and (iv) provide the requirements and rights described in this Section. If the Owner fails to pay the assessment due by the date specified in the notice, the Manager or Board may deliver written notice to the tenant that demands future payments due to the Owner be paid to the Association pursuant to this Section. The Manager or Board shall mail a copy of the notice to the Owner. The notice provided to the tenant under this Section shall state: (i) that due to the Owner's failure to pay the assessment within the time period allowed, the Owner has been notified of the intent of the Board to collect all lease payments due to the Association; (ii) that

until notification by the Association that the assessment due, including any interest, collection cost, or late payment fee, has been paid, the tenant shall pay to the Association all future lease payments due to the Owner; and (iii) that payment by the tenant to the Association in compliance with this Section will not constitute a default under the terms of the lease agreement. If a tenant makes payments in compliance with this Section, the Owner may not initiate an action against the tenant. All funds paid to the Association pursuant to this Section shall be: (i) deposited in a separate account; and (ii) disbursed to the Association until the assessment due, together with any cost of administration which may not exceed Twenty-Five Dollars (\$25.00), is paid in full. Any remaining balance shall be paid to the Owner within five (5) business days after payment in full to the Association. Within five (5) business days after payment in full of the assessment, including any interest or late payment fee, the Manager or Board shall mail a copy of such notification to the Owner.

7.7 Statement of Account. The Manager or Board shall issue a written statement indicating any unpaid assessment with respect to a Lot covered by the request, upon the written request of any Owner, and payment of a reasonable fee not to exceed Ten Dollars (\$10.00). The written statement shall be binding in favor of any person who relies in good faith on the written statement upon the following: (i) remaining Owners; (ii) Manager; and (iii) Board. Unless the Manager or Board complies with such request within ten (10) days, any unpaid assessment that became due prior to the date the request was made is subordinate to a lien held by the person requesting the statement.

7.8 Payment by Encumbrancer. An encumbrancer holding a lien on a Lot may pay any unpaid assessment due with respect to the Lot. Upon such payment, the encumbrancer has a lien on the Lot for the amounts paid.

7.9 Cumulative Remedies. The assessment liens and the rights to foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid assessments, as above provided.

7.10 Mortgage Protection. Notwithstanding all other provisions hereof, no lien created under this Article VII, nor any breach of this Charter, nor the enforcement of any provision hereof shall defeat or render invalid the rights of the Beneficiary under any recorded first Deed of Trust (meaning any deed of trust with first priority over other deeds of trust) upon a Lot made in good faith and for value; provided that after such Beneficiary or some other Person obtains title to such Lot by judicial foreclosure or by means of the powers set forth in such Deed of Trust or through a deed in lieu of foreclosure, such Lot shall remain subject to the Charter and the payment of all installments of Assessments accruing subsequent to the date such Beneficiary or other Person obtains title.

7.11 Rent After Foreclosure. In the event the Association takes title to a Dwelling Unit through foreclosure, the Board may elect to allow the occupant to remain in the Dwelling Unit and the occupant shall be required to pay a reasonable rental to the Association for the Dwelling Unit.

ARTICLE VIII ARCHITECTURAL CONTROL

8.1 Members of Committee. Until every Lot subject to this Declaration, including Lots in future phases, has been transferred to a bona fide purchaser, and a home is constructed on each Lot, the Architectural Control Committee shall be the Declarant, or any other person appointed in writing by Declarant. After homes are built and title to 100% of the Lots in the Property have been transferred by the Declarant to third-party purchasers, a majority of the Owners of homes and Lots subject to this Declaration shall elect and appoint Members of the Board, which shall thereafter be vested with the powers described herein and shall have jurisdiction over all of the Property subject to this Declaration.

8.2 ACC General Powers. The ACC shall have the right and duty to promulgate reasonable standards against which to examine any request made pursuant to this Article, in order to ensure that the proposed Plans conform harmoniously to the exterior design and existing materials of the Improvements on the Property. This power shall include the power to issue ACC Rules and Regulations which, among other provisions, may set forth procedures for the submission of Plans for approval, and state additional factors which it will take into consideration in reviewing submissions.

8.3 Review of Plans and Specifications. Prior to the commencement of any excavation, construction or remodeling of any structure or of any addition to any structure, or modification of the natural topography of any Lot, or installation of fences or landscaping elements, approval of the ACC is required. The Board should be contacted to obtain an application form for submission of plan approval by the ACC.

(a) Two (2) complete sets of building plans and specifications shall be filed with the ACC, together with a site or plot plan showing grading, landscaping and all lighting, indicating the exact part of the building site which the improvements will cover, with such fee as the ACC may determine from time to time, and an application and such supporting material, such as samples of building materials, as the ACC deems necessary. No work shall commence unless and until the ACC shall endorse on one set of such plans its written approval that such plans are in compliance with the covenants herein set forth and with the standards herein or hereafter established by said ACC pursuant hereto. The second set of such plans shall be filed as a permanent record with the ACC.

(b) Said ACC shall have the right to refuse to approve any such plans and specifications and shall have the right, in so doing, to take into consideration the suitability of the proposed building, the materials of which it is to be built, the site upon which it is proposed to be erected, the harmony thereof with the surroundings, and the effect of said building, or other structure so planned, on the outlook from adjacent or neighboring property.

(c) The ACC shall promulgate and maintain a list of standards for guidance in approving or disapproving plans and specifications pursuant to this Article.

(d) In the event the ACC fails to approve or disapprove in writing any such plans within thirty (30) days after the submission thereof to the ACC, then approval shall be deemed to have been given.

(e) Once construction begins on any improvement, landscaping or alterations, which construction has been approved by the ACC, construction shall be diligently pursued to completion. In the event work begins and remains uncompleted for a period of six (6) months, the Association may undertake to complete the exterior work of the construction, and the cost of which shall be a lien against the Lot which benefited from the construction.

(f) No residence, accessory or addition to a residence, other structure or building shall be constructed or maintained, and no grading or removal of natural vegetation or change in natural or approved drainage patterns or installation of fencing or landscaping elements shall occur on a Lot until any required permit or required approval therefore is obtained from the appropriate governmental entity following submission to the appropriate governmental entity of such information as it may reasonably require. The granting of a permit or approval by any governmental entity with respect to any matter shall not bind or otherwise affect the power of the ACC to refuse to approve any such matter.

8.4 Meetings of the ACC. The ACC shall adopt reasonable rules and regulations for the

conduct of its proceedings and to carry out its duties and may fix the time and place for its regular meetings and such extraordinary meetings as may be necessary, and shall keep written minutes of its meetings, which shall be open for inspection upon request. The ACC shall, by majority vote, elect one of its members as chairman and one of its members as secretary and the duties of each will be such as usually appertain to such offices. Notice of meetings shall be given to members who have made application to the ACC for approval of plans.

8.5 No Waiver of Future Approvals. The approval by the ACC of any proposals or Plans for any work done or proposed or in connection with any other matter requiring the approval and consent of the ACC, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, Plans or matters subsequently or additionally submitted for approval or consent.

8.6 Compensation of Members. Unless authorized by resolution of the Board, the members of the ACC shall not receive any compensation for services rendered. Members shall be entitled to reimbursement for reasonable expenses incurred by them in connection with the performance of any ACC function or duty. Professional consultants retained by the ACC shall be paid such compensation as the ACC determines.

8.7 Limitation on Liability. Neither the ACC, the Board nor Declarant, nor any member thereof, acting in good faith shall be liable to the Association or to any owner for any damage, loss, or prejudice suffered or claimed on account of (i) the approval or rejection of, or the failure to approve or reject, any Plans, drawings, specifications, or variance requests (ii) the construction or performance of any work, whether or not pursuant to approved Plans, (iii) the development or manner of development of any of the Property, or (iv) any engineering or other defect in approved Plans, drawings and specifications.

8.8 Declarant's Rights. Declarant shall be exempt from the provisions, restrictions, and requirements of this Article, as the same exists or as it may be amended, supplemented, or replaced in accordance with other provisions of the Covenants.

ARTICLE IX MAINTENANCE AND REPAIR OBLIGATIONS

9.1 Maintenance by Owner. Each Owner shall be responsible for the maintenance of the Owner's Lot. The Owner of each Lot shall keep the same free from rubbish, litter and noxious weeds. All structures, landscaping and improvements shall be maintained in good condition and repair at all times. Each Lot shall be subject to an easement for access to make repairs upon adjoining Lots and structures; provided however, that:

(a) Any damage caused by such entry shall be repaired at the expense of the Owner whose property was the subject of the repair work which caused the same;

(b) Any such entry shall be made only at reasonable times and with as little inconvenience as possible to the Owner of the entered Lot; and

(c) In no event shall said easement be deemed to permit entry into the interior portion of any residence on a Lot.

In the event any Owner fails to perform this maintenance in a manner so as not to detract from the appearance of the Property, or affect adversely the value or use of any other Lot, the Directors of the Homeowners Association shall have the right to have maintenance performed on the Lot and the cost of said maintenance

shall be added to and become part of the assessment to which such Lot is subject.

9.2 Operation and Maintenance by Association. The Association, by its duly delegated representative, shall provide for such maintenance and operation of the Common Areas.

9.3 Party Walls.

(a) General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Dwelling Units upon the Property and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall, including perimeter walls, shall be shared by the Owners who make use of the wall in proportion to such use, or the Owner of the wall even if there is no wall in common.

(c) Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, then, to the extent said destruction or damage is not covered by insurance and repaired out of the proceeds of the same, any Owner who has used the wall may restore it, and, if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements to the extent that said protection is not covered by insurance and paid for out of the proceeds of the same.

(e) Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

(f) Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. Should any party refuse to appoint an arbitrator within ten (10) days after written request to do so, the Board of Directors of the Association shall select an arbitrator for the refusing party.

9.4 Perimeter Walls. The Association shall not be obligated to maintain any walls in the Project. Walls dividing a Lot and Common Area shall be maintained by the Owner of the Lot.

9.5 Mold. Whether or not you as an Owner experience mold growth depends to a great extent on how you manage and maintain your Dwelling Unit. You are hereby given notice to take all reasonable means to detect and prevent growth and infestation of mold and other similar agents. The Declarant will not be responsible for any damages, and as Owner you waive any claim to damages, caused by mold, or by some other agent, that may be associated with customary construction practices in the area, to include but not be limited to property damage, personal injury, loss of income, emotional distress, death, loss of use, loss of value, and adverse health effects, or any other effects or losses. Any implied warranties, including but not limited to an implied warranty of workmanlike construction, an implied warranty of habitability, an implied warranty of merchantability or an implied warranty of fitness for a particular purpose, are hereby waived

and disclaimed by you as the Owner.

ARTICLE X
ARCHITECTURAL GUIDELINES AND DESIGN RESTRICTIONS

In order to promote a harmonious community development and protect the character of the neighborhood, the following guidelines, together with any guidelines hereafter established by the ACC, are applicable to the Property:

10.1 Purpose and Intent. The intent of these architectural guidelines is to encourage a blending of styles within the Property with the natural surroundings and prevailing architecture of the created environment of the Property. These standards allow design latitude and flexibility, while ensuring that the value of the property will be enhanced through the control of site planning, architecture and landscape elements. The following architectural guidelines serve as an evaluative aid to Owners, builders, project developers, design professionals, City staff, the Planning Commission, City Council and the ACC in the design review of individual, private and public developments within the Property. The City of Washington Zoning Regulations will apply for any area of design not addressed in these guidelines.

10.2 Single Family Residence. The only buildings or structures permitted to be erected, placed or permitted to be located on any Lot within the Property shall be a single family dwelling placed within the building envelope for each Lot and not to exceed the height requirements found in this section. All construction shall be of new materials. All structures shall be constructed in accordance with the zoning and building ordinances of the City of Washington, Utah in effect from time to time.

10.3 Business or Commercial Activity. All Lots shall be used only for single-family residential purposes. No professional, business or commercial use shall be made of the same, or any portion thereof. The provisions of this section shall not preclude an occupant who is engaged in individual professional work (e.g. accountant, bookkeeper) without external evidence thereof (such as shipping of items or foot traffic from clients), so long as: (i) such occupant conducts its activities in conformance with all ordinances (ii) such business activity is merely incidental to the use thereof as a dwelling and (iii) such occupant does not solicit or invite the public to the Lot or residence as part of such business activity.

10.4 Signs: Commercial Activity. Until such time as Declarant no longer owns a Lot in the Property, there shall be a restriction on signage within the Property. An Owner may not post a sign anywhere within the Property, and specifically may not post a sign on an Owner's Lot or in a window of a Unit. In order to provide for an uncluttered streetscape within the Property there shall be a restriction against signs. An Owner may sell or rent the Owner's Lot/Unit, but shall not be allowed to post signs offering the same for sale or rent. An Owner can use any of the follow mediums for advertising a Unit for Sale or Rent:

- (a) A Multiple Listing Service.
- (b) Newspapers, magazines, and other such publications.
- (c) A real estate agent, property management agent of the Owner's choice.
- (d) Word of mouth.
- (e) The Owner may list the property with Declarant and or Declarant's affiliates, so

that the Owner's Lot will be offered for sale or rent along with other Lots being offered for sale or rent by Declarant.

After Declarant no longer owns a lot in the Property, the foregoing restrictions shall expire, and all future restrictions on signage shall be governed by the following provision:

Except for one "For Rent" or "For Sale" sign of not more than four (4) square feet, no advertising signs, billboards, objects of unsightly appearance, or nuisances shall be erected, placed, or permitted to remain on any Lot or any portion of the Properties. No commercial activities of any kind whatever shall be conducted in any building or on any portion of the Properties. The foregoing restrictions shall not apply to the commercial activities, signs and billboards, if any, of the Declarant or its agents during the construction and sales period or by the Association in furtherance of its powers and purposes set forth hereinafter and in its Articles of Incorporation, Bylaws and Rules and Regulations, as the same may be amended from time to time.

10.5 No Hazardous Activities. No activities shall be conducted on the Property and no improvements shall be constructed on the Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon the Property and no open fires shall be lighted or permitted on the Property except in a contained barbecue or fire pit unit while attended and in use for cooking purposes or within a safe and well-designed interior fireplace.

10.6 Parking for Outdoor Vehicles. No recreational or other utility vehicles may be parked within the Common Area or upon the driveways of any Lot for longer than a forty-eight (48) hour period in any seven (7) day period. In no event shall any recreational vehicle, boat, camper, trailer, tent trailer, utility trailer, or mobile home be used for camping or for overnight accommodations by the Lot Owner or by the Lot Owner's guests in or on the driveways or front side-yards of a Lot. Other than as provided above, recreational and other utility vehicles must be parked behind the front foundation line of a home in the side or rear yards. Notwithstanding that an Owner may temporarily store the above referenced items in the side-yard behind the front side-yard wall, the intent of this Section (h) is to maintain an attractive streetscape in the Development. Awnings and similar covering systems must receive pre-approval of the ACC. Tarps and similar temporary coverings shall not be allowed. The streets of the Development are public streets. Notwithstanding they are public streets, no Owner shall park recreational or other utility vehicles, as described above, on the public streets of the Development other than as provided above.

10.7 Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lots part or portion of the Property, except that dogs, cats, birds or other domesticated household pets, two (2) or less in total number, may be kept in a residence constructed on a Lot, provided that they are not kept, bred or maintained for any commercial purpose. Such animals as are permitted shall be on a leash or inside a fence when outside the Owner's residence.

10.8 Construction. In order to promote a harmonious community development and protect the character of the Property, the following guidelines are applicable to the Property:

(a) Commencement and Completion of Construction. Home construction on a Lot must commence within fifteen (15) months of purchase of a Lot. The construction of any building on any portion of the Property shall be continuously and diligently pursued from and after the commencement of such construction, and in any event shall be substantially completed within twelve (12) months after such commencement.

(b) Building Materials Storage. No Lot, part or portion of the Property shall be used or maintained as storage for building materials except during a construction phase. Once a dwelling is occupied or made available for sale all building materials shall be removed or stored inside such dwelling, out of public sight.

(c) Landscaping. Front yard landscaping shall be complete prior to occupancy. Rear and side yard landscaping shall be complete within twelve (12) months of completion of construction.

(d) Soils Test. The Lot purchaser is encouraged to obtain a soils test and recommendation on foundation from a Utah registered engineer prior to construction. Declarant hereby denies any liability for soils conditions or testing of soils in the Property. The ACC may require that the Lot Owner obtain a soils test and recommendation on foundation prior to the final approval. Furthermore, the ACC may condition final approval following the recommendations set forth in the soils test document.

(e) Damages. Any damage inflicted on existing improvements such as curbs, gutters, streets, concrete sidewalks and such, by any purchaser or Owner and/or their agents of any particular Lot in the Property must be repaired within thirty (30) days after such damage is discovered, and the expense of such repair shall be borne by the purchaser or Owner who caused the damage. This also includes any damage to landscaping. Any dirt or gravel spilled or dumped on sidewalks and/or streets during any construction or landscaping shall be removed at the cost and/or expense of the Lot Owner that caused the damage, and returned to the then pre-existing condition of the sidewalk and/or street.

(f) Maintenance of Lot during Construction. Contractors or subcontractors as Owner/builders must provide on-site dumpsters during construction and are required to clean up the construction site daily to maintain a clean work site during construction. Dirt or mud from the construction site or elsewhere, dispersed, directly or indirectly, on the streets within the Property must be cleaned up within twenty-four (24) hours by the contractor or subcontractor as Owner/builder. The ACC may levy up to a Five Hundred Dollar (\$500) fine against a violator and/or the Owner of the Lot for each day such a violation of this subsection continues. The fine shall be a charge on the Owner's Lot and shall be a continuing lien on the Lot.

10.9 Temporary Buildings. No structure of a temporary nature, and no trailer, bus, basement, outhouse, tent, shack, garage, or other outbuilding shall be used at any time as a residence either temporarily or permanently, nor shall any such structures be erected or placed on the Property at any time (except portable outhouses and dumpsters with lids or covers during construction). No old or second-hand structures shall be moved onto any of said Lots. It is the Declarant's intention that all dwellings and other buildings to be erected within the Property be new construction, of good quality, workmanship, and materials.

10.10 Fences and Sight Obstructions. No structure, fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points thirty (30) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight line limitations shall apply on any Lot within (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at such height to prevent obstruction of such sight lines. No fence, wall, hedge, shrub or other structure shall be placed along any front property line. No fence, wall, hedge, tree, plant, shrub or foliage shall be planted, kept or maintained in such manner as, in the opinion of the ACC, shall create a serious potential hazard or an aesthetically unpleasant appearance to other residents.

10.11 Drilling. Except as permitted for earth-coupled heat pumps or similar devices as provided for below, no oil drilling, oil, gas or mineral development operations, oil refining, geothermal

exploration or development, quarrying or mining operations of any kind shall be permitted on the Property, nor shall oil wells, tanks, tunnels or mineral excavations or shafts be permitted on or below the surface of any Lot. Further, except as permitted for earth-coupled heat pumps or similar devices as provided for below, no derrick or other structure used in boring for water, oil, geothermal heat or natural gas shall be erected, maintained or permitted on the Property. The Board in its discretion may approve earth-coupled heat pumps or similar devices which may require the excavation or drilling of vertical or horizontal trenches or shafts below the surface of the improved area of a Lot.

10.12. Minimum Square Footage Required. For a one story dwelling, no single unit shall have less than 1,600 square feet of finished living area on the main level exclusive of porches, balconies, patios and garages. For a two story dwelling, the two stories combined shall not be less than 2,200 square feet of finished living area exclusive of porches, balconies, patios and garages. For a two story dwelling, the main level shall not be less than 1,400 square feet of finished living area, exclusive of porches, balconies, patios and garages.

10.13 Types of Homes Prohibited. Four (4) level split entry (bi-level) homes will not be permitted in this Property unless approved by the ACC. No RVs, modular homes, underground or basement homes, round homes, octagon homes, prefabricated homes, rebuilt homes, relocated homes, concrete homes, or any other unusual style of home shall be allowed in the Property regardless of ACC approval of the same. No solar homes can be built unless approved by the ACC.

10.14 Exteriors of Homes. Tumbled or used brick, stucco, rock, or any combination of the same that is approved by the ACC is allowed as exteriors for all buildings in the Property, including accessory buildings and detached garages. There must be at least two (2) of the above named materials used in the front and side elevations of the home, with at least thirty percent (30%) of the front elevation to be of the lesser used material. In addition to the combination of any two (2) materials named above, vinyl, aluminum, steel or hardboard siding is not permitted. Any other exterior material may be used only upon the express approval of the ACC. Home exteriors using stucco must be of high quality synthetic stucco. Elevations should be consistent with the intended architectural style of the residence and carried around all four elevations of the structure.

10.15 Roofs and Roofing Materials. Flat roofs are not permitted. The minimum roof pitch is 12/12. Accent on roofs can be a minimum of 4/12. Roofing material shall be limited to flat or "S" concrete or slate tiles. Colors shall be subdued earth tones, or such other colors as may be allowed by the ACC. No asphalt shingle, wood shakes or other shingle roofs are allowed in any form. With the exception of normal exhaust fans, vents, pipes and chimneys, nothing is permitted to break the visual lines of the roof. All solar collectors must be designed and built integral to the roof and may not protrude above it. Air conditions, heaters, swamp coolers, TV and radio antennas, flagpoles, satellite and radar receivers and other such mechanical implements are not permitted on roofs, unless submitted to and approved by the ACC.

10.16 Colors. Base building colors shall be subdued earth tones or such other colors as may be allowed by the ACC. Pastels or high gloss finishes may not be used. Complementary accent colors can be used on facia, window trim, shutters and doors. Colors for windows and doors must be designated on the plans that are submitted to the ACC for approval prior to construction. Sheet metal, flashing, vents and pipes must be colored or painted outmatch the material to which they are attached or from which they project. No reflective exterior surfaces or materials shall be used.

10.17 Setbacks. The following minimum setback standards apply to the Lot. All measurements shall be made from the applicable Lot line to the foundation, porch or other extension of such building, whichever is nearer to such Lot line.

Front: Minimum of 25 feet Lot line to structure.

Side: Minimum of 10 feet from Lot line to structure.

Rear: Minimum of 10 feet from Lot line to structure.

The above set-backs notwithstanding, in no event shall any portion of any building, including eaves or steps, encroach upon any other Lot and all setbacks shall comply with the City of Washington ordinances.

10.18 Building Height. Building height shall be measured from the high side of the curb elevation of the Lot to the highest point of the roofline of a home. Single-story homes shall not exceed 25 feet in height. Two-story homes, as approved by the ACC, shall not exceed 35 feet in height.

10.19 Garages. All residences constructed on a Lot shall include a fully enclosed, private attached garage, built to accommodate not less than 2 nor more than 4 vehicles. Carports are not a substitute for a garage and are not allowed. The height of a garage door header shall not exceed eight (8) feet of clearance for the passing of vehicles. Exceptions are to be reviewed by the ACC. All garages shall be constructed of the same exterior materials and in harmony and be architecturally compatible with the residence constructed on the Lot. Each Owner shall use the garage portion of the Owner's Lot for the storage of motor vehicles. No Owner shall use a garage for any purpose which prevents storing of motor vehicles, unless doing so would not result in additional motor vehicles being stored outside the Owner's garage. No Owner shall remodel a garage or use a garage on any Lot for residential purposes.

10.20 Driveways. Driveways shall be constructed out of concrete, inlaid brick, or other hard materials approved by the ACC. In no event shall a driveway or walkway be constructed of dirt, sand, clay or road base material, or asphalt. Any proposed stamped concrete designs and colors must first be submitted and approved by the ACC. Driveways shall be of a sufficient size that two (2) vehicles can park thereon side by side, and shall in all other respects conform to City of Washington requirements. Driveways shall be limited solely to providing a connection between the street and the garage area; no private lanes or streets traversing Lots shall be allowed.

10.21 Accessory Buildings. No storage or utility buildings are allowed unless first submitted to and approved by the ACC.

10.22 Landscaping. All front yard landscaping, as well as side yard landscaping reaching to the half-way point of the total depth of the home, including grass, trees and shrubs must be completed at the issuance of a Certificate of Occupancy by the City of Washington or prior to occupancy of the home. The front yard must be a minimum of ten percent (10%) grass. All landscaping shall be compatible with other homes in the Property. Shrub and tree planting and landscaping on corner lots shall be located so as not to obstruct the view and create a hazard for the movement of vehicles or pedestrians along the street. Within 6 months after the City's issuance of a Certificate of Occupancy for a home on a Lot, the Owner must have substantially completed the landscaping of the rear portion (i.e., all other portions not considered the "front yard") of the Lot. All rear-yard landscaping shall be done appropriately with xeriscaping to facilitate water conservation, lawn areas or accents, trees, shrubs, planting beds, etc. All rear-yard landscaping must include a clock-controlled irrigation system, access to which is located on the exterior of the home, to facilitate access by the Association during maintenance or emergencies and/or the absence of the Owner. All rear-yard landscaping shall be maintained by each Lot Owner at a reasonable standard compatible with front yard maintenance by the Association and with other homes in the Project, it being the intent of this

covenant that the responsibility for and cost of yard maintenance shall solely belong to each Lot Owner, except that the Association may provide front-yard maintenance. Shrub and tree planting on corner Lots shall be located so as not to create a hazard for the movement of vehicles along streets, in accordance with local ordinances. All landscaping installed by any party other than Developer must be approved by the ACC. In the event a Lot Owner delays the installation of rear-yard landscaping beyond the time the Declarant has landscaped the front-yard, and in the event the Owner's own physical labor or Owner's contractor damages the front-yard landscaping prior to occupancy, the Lot Owner, at his/her own expense, shall restore the front-yard landscaping to its original condition. Failure by the Lot Owner to complete yard landscaping as provided in this Section may result in the following action. The Association shall notify the Lot Owner that a violation has occurred. This notification shall be in writing and delivered to the Owner by certified mail. The Association may levy a Five Hundred Dollar (\$500.00) fine against a Lot Owner notified of violation of this provision. The fine shall be a charge against the Owner and shall be a continuing lien on the Lot as provided in Article 4. The Lot Owner shall have 45 days from the date of receipt of Notification to complete all landscaping of the Lot. Failure by the Lot Owner to complete the landscaping within the allotted 45 days shall result in a One Hundred Dollar (\$100.00) fine, to be levied each and every month until the landscaping is complete. Said fine or fines, as levied, shall be a charge against the Owner and shall be a continuing lien on the Owner's Lot as provided in Article VII.

10.23 Planting and Gardening. No planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon the Property except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the ACC.

10.24 Separation and Interior Lot Walls. Declarant may construct block landscaping walls which border the development project and separate same from other developments, public rights-of-way, and adjacent Lots. Such walls shall be deemed Separation Walls. Separation Walls shall further be defined as the perimeter wall serving as a rear-lot wall of each Lot backing onto the perimeter property line of the Project. It is the intent of the Declarant that all Separation Walls be owned and maintained by the Owner of each Lot. Separation Walls, by definition, shall also include other yard/privacy walls and fences constructed by Declarant or Lot Owner as part of individual home construction. To the extent not inconsistent with the provisions of these Covenants, general rules of law regarding party walls and liability for property damage due to negligence or willful acts of omissions shall apply thereto. Owners of each Lot shall be responsible for the cost of reasonable repair and maintenance of Separation Walls surrounding Owner's Lot. The Association shall have the right to enter upon any Lot for the purpose of repairing and maintaining Separation Walls in the event the Owner does not repair the damage in a timely manner. The cost of such repair by the Association shall be a lien upon such Owner's Lot and shall be added to the annual assessment as provided in Article VI. No changes or alterations to Separation Walls shall be made by Owners without the prior written approval of the ACC. If a Separation Wall is destroyed or damaged by fire or other casualty the Owner of the Lot which is benefited by the Wall shall bear the responsibility to restore the wall. If the Separation Wall is a party or shared wall, then the Owners of the Wall shall each participate in a pro rata share of any restoration. No Owner whose Lot includes a portion of a Separation Wall backing against any public right-of-way, or a wall which can be seen from a public right-of-way, shall paint, construct additions to, color, or otherwise decorate the exterior surface of said Separation Wall. Any Owner found in violation hereof shall bear the whole cost of refurbishing and restoring the wall to its original condition, consistent with other portions of the Separation Walls. Notwithstanding any other provision of this Article, an Owner who by negligent or willful acts causes a Separation Wall to be exposed to the elements shall bear the cost of furnishing the necessary protection against such elements.

In the event of any dispute arising concerning a Separation Wall each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

10.25 Walls, Fences and Barriers. Walls, fences and barriers other than those constructed by Declarant as part of the initial development of the Property shall be approved by the ACC and shall be constructed of "Geneva Brown" cinderblock or such other material and color approved by the ACC. No wood fences or chain link fencing shall be allowed. Walls and fences shall not exceed three (3) feet in height in the front yard area, and shall not exceed seven (7) feet in height in other yard areas. All walls, fences and barriers shall be kept and maintained in a visually pleasing manner and in good repair. Lot line walls should be constructed so that they can be used by Lot Owners in each side of such wall. The Owners of adjacent Lots are responsible for coordinating with a contractor for location of walls between the Lots. Rock walls and rock retaining walls may be allowed by the ACC, subject to the ACC's review and approval. Rock retainage and concrete retainage walls must be designed by a certified engineer. Said certification shall be submitted to the ACC for review and consideration. The engineer's design and accompanying calculations and certification shall be submitted to the ACC. The engineer's certification will, among other things, certify that the retaining wall will in no way compromise the structural integrity of the retaining walls installed by the Declarant as part of the construction process. Walls or fences are intended to enhance the privacy of the residents of such Lot, and should not unreasonably interfere with the view from any neighboring Lot. Where a fence or wall is located along an interior property line separating two Lots and there is a difference in grade of the two Lots, the fence or wall may be erected or allowed only to the maximum height permitted from the grade of the highest Lot. Fences may not be bermed for the purpose of increasing allowable height. General rules of law and written agreements shall apply to yard walls and fences in relation to maintenance, repair, and liability for negligent acts and omissions.

10.26 Retaining Walls. Retaining walls are restricted to a maximum height of five (5) feet, unless otherwise approved by the ACC. In the event approval is given for a retaining wall higher than the restrictions herein, the retaining wall must be tiered and landscaping must be installed to hide the retaining wall.

10.27 City of Washington Requirements. All structures built on any Lot must be constructed in accordance with all applicable zoning and building ordinances of the City of Washington.

10.28 Further Subdivision; Lease Provisions. No Owner shall further partition or subdivide his Lot or the rooms in the Dwelling Unit, including without limitation any division of his Lot into time-share estates, time-share uses, or creation of additional living quarters; provided, however, that this provision shall not be construed to limit the right of an Owner (1) to rent or lease his entire Lot to a single family by means of a written lease or rental agreement subject to the restrictions of this Declaration, so long as the Lot is not leased for transient or hotel purposes; (2) to sell his Lot; or (3) to transfer or sell any Lot to more than one person to be held by them as tenants-in-common, joint tenants, tenants by the entirety or some other form of joint ownership. By operation of law, an Owner may rent or lease his entire Lot to another individual(s) and in so doing shall comply with the provisions of this Section.

(a) Any temporary or other occupancy, other than by the titled Owner, the Owner's family, friends, and invited guests, must be for a period of at least six (6) months. No Owner may designate a family, friends or invited guests as a tenant in order to avoid the intent of this Section.

(b) Each such occupancy shall be established between the parties by a written lease/rental/occupancy agreement, a copy of which shall be submitted by the Owner to the Board or appointee, together with a signed copy of the Temporary Occupancy Notification Form (available from the Board). Notwithstanding anything herein, any occupancy that is for a period of longer than two (2) consecutive weeks must comply with the provisions of this Section.

(c) Any lease agreement between an Owner and a lessee/renter shall provide that the terms of the lease shall be subject in all respects to the provisions of this, the Articles of Incorporation of the Association, the Bylaws of the Association, and all rules and regulations enacted by the Board. The lease agreement must further provide that any failure by lessee/renter to comply with the terms of such documents and rules and regulations shall be a default under the lease.

(d) The Temporary Occupancy Notification Form may require the following information: (i) that the Owner has conducted credit and reference checks and concluded, thereby, that the lessee/renter will be a responsible, qualified renter; and (ii) that the lessee has read this Declaration, the Association rules and regulations, and such other documents as published by the Association from time to time, and, by signature of the lessee/renter, agrees to abide by same. The Temporary Occupancy Notification Form shall also bear the signature of the Owner, indicating thereby that the Owner has performed all of the above. Failure of the Owner to provide a copy of a properly referenced lease/rental agreement and Lease Notification Form to the Association shall result in the Association imposing on the Owner a fine of two-hundred fifty dollars (\$250.00), which shall be a lien upon such Owner's Lot and shall be added to the annual assessment as provided in Article VI, (and permits the Association to pursue any remedy of law available to it in the enforcement of this provision.) (A modified version of the Temporary Occupancy Notification Form may be used in cases of family, friends and guests occupying the Home for a period longer than two (2) consecutive weeks.)

Notwithstanding any other rights of enforcement under this Declaration, the Bylaws of the Association, all rules and regulations enacted by the Board, or by applicable law, the Association may impose a fifty-dollar (\$50.00) fine on the Owner, which shall be deemed a lien upon such Owner's Lot and shall be added to the annual assessment for that Owner's Lot as provided in Article VI, for each violation by Owner's lessee/renter of this Declaration, the Bylaws of the Association or any rules or regulations enacted by the Board. Such fine shall be imposed after a ten (10) day notice is given to the Owner of such violation, which notice shall be deemed given on the date such notice is mailed, prepaid, first class U.S. mail, to Owner's address as shown on the County Recorder's ownership records, or by hand delivery to the Owner. The Association may impose an additional fifty dollar (\$50.00) fine on the Owner for each day such violation continues after the ten (10) day notice period provided herein, which additional fines shall constitute a lien upon such Owners Lot and shall be added to the annual assessment as provided in Article VI.

10.29 Drainage. No structure, planting or other material shall be placed or permitted to remain or other activities undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels. The slope control areas of each Lot and all improvements in them shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible. Lot Owners are responsible to see that no nuisance or damage is created by drainage location or flow to any adjacent property.

10.30 Easements. Easements for installation and maintenance of utilities, drainage facilities and ingress and egress are reserved as shown upon the recorded Plat. Within these easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow or drainage channels in the easements or which may impede ingress and egress. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

10.31 Lateral and Subjacent Support and Drainage. Any Owner who conducts activities that affect the lateral or subjacent support, or both, of adjacent landowners shall be responsible for damages proximately caused by such activities. An Owner shall be responsible for all damage proximately caused by drainage from the Owners Lot to adjacent landowners.

10.32 Water Supply and Sewage Disposal Systems. No individual water supply or sewage disposal system shall be permitted on any Lot on the Property unless such system is designed, located, constructed and equipped in accordance with the requirements, standards and recommendations, if any, of the ACC and of any public agency having jurisdiction over the Property, the Washington County, Utah Health Department, and all other applicable governmental authorities.

10.33 Trash Receptacles. No Lot or part or portion of the Property, shall be used or maintained as dumping ground for rubbish, rubble, trash, garbage or other waste. Such trash, rubbish, rubble, garbage or other waste as produced within the Property shall be kept only in sanitary containers inside a structure except when placed for collection. No rubbish, trash, papers, junk or debris shall be burned upon the Property. Each Lot shall use the standard, approved Washington City trash container for garbage collection, and shall use the same in accordance with City policies. Other such containers, as permitted by Washington City may be used. All containers that are used shall be kept in repair and shall not be placed on the street for collection in a broken condition. All trash collection containers shall be kept neatly by the Lot Owner at the side or, where possible, in the rear-yard.

10.34 Light. Light used to illuminate patios, parking areas or for any other purpose, shall be so arranged as to reflect light away from adjacent residences and away from the vision of passing motorists. Low-level outdoor illumination may be used for particular landscape features (trees, rock formations, etc.). The address numbers for the Lot must be placed on the front of the home and there must be adequate lighting for address numbers to be seen.

10.35 External Apparatus. Air conditioning, heating equipment, and soft water tanks must be screened from view so as not to be visible from neighboring property or from the streets of the development, and shall be insulated for sound attenuation. Solar panels, heat pumps and/or air conditioning units are not permitted on roofs or through windows. No Lot Owner shall cause or permit anything (including, without limitation, awnings, canopies or shutters) to hang, be displayed or otherwise affixed to, or placed on the exterior walls or roof, or any part thereof, or on the outside of windows or doors, without the prior written consent of the ACC.

10.36 Utility Meters. Utility meters shall be placed in as inconspicuous a location as possible. Locations of meters are to be shown on the plans, and meters must be screened from view from neighboring Lots. Exposed piping should be painted to match exterior colors of the dwelling structure. The area immediately around the meters should be cleared to allow for access. Electric meters, switches, or circuit breaker boxes are not to be located in the same enclosure with the gas meter and regulator. Enclosures for gas meters and regulators are to be vented in compliance with the Uniform Building Code.

10.37 Mailboxes. Cluster mailboxes already existing, or which are installed by Declarant and are the only allowed mail receptacles. If a "cluster-type" box is not provided, mailbox posts shall be shared by Lot Owners and shall be located on a common boundary line. The mailboxes shall conform to postal regulations and to the style and construction as set forth in the plans and specifications maintained at the Association office and shall be approved by the ACC. No pipe, wood, or small black posts are allowed. Replacement of cluster-type or shared boxes shall be of a type, style, color and function as the original box. In the event an exact replacement is not available, the Owner shall submit a request for a substitute box to

the ACC for approval. The decision of the ACC shall be binding.

10.38 Exception for Declarant. Notwithstanding the restrictions contained in this Article X, Declarant shall have the right to use any Lot or Dwelling Unit owned or leased by it in furtherance of any reasonably necessary or appropriate construction, marketing, sales, management, promotional, or other activities designed to accomplish or facilitate the sale of Lots and/or Dwelling Units owned by Declarant. This exception shall not extend to the ordinary brokerage activities of Declarant as to which the Declarant shall be subject to the same rules and regulations as are other real estate brokerages.

10.39 FCC Antenna and Dish Policy.

(a) Types of Antennas.

(i) This Amendment applies only to the following types of antennas listed in the FCC Rule:

(1) Direct Broadcast Satellite ("DBS") antennas one meter in diameter or less, and designed to receive direct broadcast satellite service, including direct-to-home satellite service, or receive or transmit fixed wireless signals via satellite, may now be installed, while DBS antennas larger than one meter are *prohibited without the approval of the ACC.*

(2) Multi-point Distribution Service ("MDS") antennas one meter or less in diameter or diagonal measurement, designed to receive video programming services (wireless cable) or to receive or transmit fixed wireless signals other than via satellite, may now be installed, while MDS antennas larger than one meter are *prohibited without the approval of the ACC,*

(3) Antennas designed to receive local television broadcast signals ("TVBS") may now be installed. Masts higher than 12 feet above the roof line *are prohibited without the approval of the ACC.*

(4) Antennas designed to receive and/or transmit data services, including Internet access, may now be installed. Masts higher than 12 feet above the roof line are *prohibited without the approval of the ACC.*

(5) If the FCC expands the types of antennas that fall under the FCC Rule, this Amendment shall encompass those antennas as well.

(ii) All other antennas, except the ones listed above, are *prohibited without the approval of the ACC.*

(b) Location and Installation. If the antenna is one of the three types now allowed *without prior approval from the ACC,* the antenna must still comply with the following regulations:

(i) No antenna may encroach upon the Common Area or the property of another Owner.

(ii) An antenna must be placed on the backside of the roof (or in the attic) or screened in the backyard so no part of the antenna or satellite dish may be seen from the street in front of the Dwelling Unit, provided an acceptable signal quality may be received from such location,

(iii) The antenna must be shielded from view from the street and neighboring Property to the maximum extent possible as long as an acceptable signal quality may be received. If necessary to shield the antenna from view, the Association may require that the antenna be shielded by reasonably priced landscaping that complies with the Association's landscape requirements.

(iv) Antennas, masts and any visible wiring must be painted to match the color of the structure to which they are installed, provided the painting does not interfere with acceptable quality signal and does not void the manufacturer's warranty.

(v) The antenna must comply with all applicable city, county and state laws, regulations and codes. The Association must be provided with a copy of any applicable governmental permits.

(vi) Installation must be pursuant to the manufacturer's instructions.

(vii) In order to protect against personal injury and property damage, an antenna may not be placed in a location where it may come into contact with a power line.

(viii) In order to protect against personal injury and property damage, all antennas must be properly grounded and secured.

(ix) In order to protect against personal injury, antennas may not block or obstruct any driver's view of an intersection or street.

(x) If the antenna is attached to a mast, the following regulations apply:

(1) Mast height shall be no higher than absolutely necessary to receive acceptable signal quality.

(2) Masts that extend more than twelve feet above the roof line must be approved by the Association before installation and the application must include a detailed description of the method by which the mast is secured and an explanation regarding the necessity of such a mast. *See Exhibit B.*

(3) Masts must be installed and painted to match their surroundings.

(4) Masts must not encroach upon the Common Area or another Owner's property.

(5) In order to protect against personal injury, masts installed upon a roof may not be installed nearer to the lot line than the total height of the mast and antenna.

(6) In order to protect against personal injury and property damage, a mast may not be installed so that it would touch a power line if it fell.

(c) Maintenance.

(i) The Owner is responsible for all costs associated with the installation and maintenance of an antenna,

(ii) The Owner is responsible for all damage caused by or connected with the antenna.

(iii) The Owner must hold the Association harmless and indemnify the Association in the event that someone is injured by the antenna.

(iv) The Owner shall keep the antenna in good repair so that it does not violate any portion of this Amendment.

(d) FCC Notice. The FCC rules provide that a restriction will impair installation, maintenance, or use if it:

- (i) Causes unreasonable delay in installation;
- (ii) Unreasonably increases the cost of the equipment or its installation, maintenance, or use; or
- (iii) Precludes reception of an acceptable quality signal.

(e) Notification.

(i) An Owner must complete the notification form attached as Exhibit A and submit a copy of the completed form to the Association within five (5) business days after installing an antenna allowed pursuant to this Amendment.

(ii) If requested by the Association, the Owner must establish a mutually convenient time to meet with a representative of the Association to review and discuss the antenna.

(f) Enforcement.

(i) In the event of a violation of this Amendment, the Association may bring an action for declaratory relief with the FCC or the Fifth District Court, Washington County, after notice and an opportunity to be heard. If the FCC or Court determines that this Amendment is enforceable, the Owner shall pay a \$50.00 fine to the Association for each violation. If the violation is not corrected within a reasonable length of time, additional fines of \$10.00 per day will be imposed for each day that the violation continues.

(ii) If an antenna poses a serious, immediate safety hazard, the Association may seek injunctive relief to compel the removal of the antenna.

(iii) The Association shall be entitled to recover its reasonable attorney's fees, costs and expenses incurred in the enforcement of this Amendment.

(g) Severability.

(i) If any provision of this Amendment is ruled invalid, the remainder of these rules shall remain in full force and effect.

(ii) If the FCC modifies its rules, the modified rules shall be incorporated into

this Amendment as if fully set forth herein.

ARTICLE XI
DAMAGE AND CONDEMNATION

Damage to or destruction of all or any portion of the Common Area and condemnation of all or any portion of the Common Area shall be handled in the following manner:

(a) Each Member shall be liable to the Association for any damage to the Common Area or Improvement thereon sustained by reason of the negligence or willful misconduct of said Member. All expenses of fixing the damage may be levied by the Association as a Corrective Assessment.

(b) If at any time the Common Area, or any part thereof, shall be taken or condemned by any authority having the power of eminent domain, the Association shall represent the Lot Owners in these proceedings, negotiations, settlements or agreements. All compensation and damages shall be payable to the Association and shall be used promptly by the Association to the extent necessary for restoring and replacing any Improvements on the remainder of the Common Area. Upon completion of such work and payment in full therefor, any proceeds of condemnation then or thereafter in the hands of the Association which are proceeds for the taking of any portion of the Common Area shall be disposed of in such manner as the Association shall reasonably determine.

ARTICLE XII
INSURANCE

12.1 Insurance on Lots and Homes. THE ASSOCIATION HAS NO DUTY OR RESPONSIBILITY TO PROCURE OR MAINTAIN ANY FIRE, LIABILITY, FLOOD, EARTHQUAKE OR SIMILAR CASUALTY COVERAGE FOR LOTS OR HOMES, OR FOR THE CONTENTS OF ANY HOME. THE ASSOCIATION ALSO HAS NO DUTY TO INSURE AGAINST ANY NEGLIGENT ACTS OR EVENTS OCCURRING AT, IN OR ON ANY LOT OR IN ANY HOME.

12.2 Assessments. Funds for insurance, as required, to be maintained by the Association shall be provided for from annual assessments as allowed by Article VI.

12.3 Required Insurances. The Association shall secure and at all times maintain the following insurance coverages:

(a) Multi-Peril Coverage. A multi-peril type policy covering any Common Area and facilities, if any. Such policy shall provide coverage against loss or damage by the standard extended coverage endorsement, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, fire, earthquake, hailstorm, water damage, and such other risks as customarily are covered with respect to developments similar to this Development in its construction, location, and use. As a minimum, such policy shall provide coverage on a replacement cost basis in an amount not less than that necessary to comply with any coinsurance percentage specified in the policy, but not less than 100% of the full insurable value (based upon replacement cost). Such policy shall include an "agreed amount endorsement" or its equivalent, a "demolition endorsement" or its equivalent, an "increased cost of construction endorsement" or its equivalent, and a "contingent liability from operation of building laws endorsement" or its equivalent. In the event the Developer has not provided any Common and Limited Common Areas, this coverage shall not be required.

(b) Broad-Form Public Liability Coverage. A comprehensive policy insuring the Owners, the Association, its Board, officers, agents and employees against all damage or injury caused by

their negligence to the public, invitees, tenants or Owners on the Common Area. Limits of the liability under such coverage shall not be less than \$ 1,000,000 for all claims for personal injury or property damage, or both, arising out of a single occurrence. Such policy or policies shall be issued on a comprehensive liability basis, shall provide that cross-insurers as between themselves are not prejudiced, and shall contain "a severability of interest" clause or endorsement to preclude the insurer from denying the claim of an Owner in the development because of negligent acts of the Association or others. In the event the Declarant has not provided any Common Area, this coverage shall not be required.

(c) Fidelity Coverage. A fidelity policy or policies to protect against dishonest acts on the part of the Board, officer(s), manager(s), employee(s) of the Association and all others, including volunteers, who handle or are responsible for handling funds of the Association. The fidelity coverage shall name the Association as the obligee or insured and shall be written in an amount sufficient to offer the protection reasonably required, but in no event less than 100% of the reserves. The fidelity bond or insurance shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of employee or similar expression. Said policy shall also provide that it may not be canceled or substantially modified (including cancellation for non-payment of premiums) without at least thirty (30) days prior written notice to all first mortgagees of Lots.

12.4 Additional Provisions. The following additional provisions shall apply with respect to insurance:

(a) Approval of Policies. All insurance policies shall be written by a reputable company approved by the Board.

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

(c) Flood Insurance. In the event that some part of the Project is now or may in the future be classified by the Housing and Urban Development as an area having special flood hazards, a blanket policy of flood insurance on the flood areas may, at the election of the Board, be maintained in an amount customarily required in projects of this type to ensure against flood damage.

(d) Premiums Maintained in the Name of the Association as Trustee. Premiums for all insurance coverage obtained by the Association shall be written in the name of the Association as Trustee for each of the Owners.

(e) Review of Insurance Policies. The Board shall periodically, and whenever demand is made by twenty percent (20%) or more of the Owners, review the adequacy of the Association's insurance program and shall report in writing the conclusions and actions of any mortgagee of any Lot who shall have requested a copy of such report. Copies of every policy of insurance procured by the Board shall be available for inspection by the Owners.

(f) Rebuilding after Damage or Destruction. In the event of damage or destruction by fire or other casualty to any Common Area properties covered by insurance written in the name of the Association as trustee for the Owners, the Board shall, upon receipt of insurance proceeds, contract to rebuild or repair such damage or destroyed portions of the Properties to as good a condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution, whose accounts are insured by a federal governmental agency, with the proviso agreed to by said bank or institution that such funds may be withdrawn only by the signatures of at least two (2) members of the Board. The Board shall advertise for sealed bids with any licensed contractors. The contractors shall be required to provide a full performance and payment bond for the repair, construction, or rebuilding of destroyed property. In the event the insurance proceeds are insufficient to pay all of the costs of repairing or rebuilding, or both, to the

same condition as formerly, the Board shall levy a special assessment against all Owners in such proportions as the Board deems fair and equitable in light of the damage sustained.

ARTICLE XIII
MORTGAGEE PROTECTION CLAUSE

Notwithstanding any other provision of this Declaration, the following provisions concerning the rights of first Mortgagees shall be in effect:

13.1 Preservation of Regulatory Structure and Insurance. Unless the holders of sixty-seven percent (67%) of all first Mortgagees and sixty-seven percent (67%) of the Lot Owners shall have given their prior written approval, the Association shall not be entitled:

(a) by act or omission to change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the Architectural design of the exterior, appearance of Dwelling Units, the exterior maintenance of Dwelling Units under certain conditions provided in Section 9.2, or the upkeep of the Common Area;

(b) to fail to maintain fire and extended coverage on insurable portions of the Common Area on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurance values (based on current replacement costs); or

(c) to use hazard insurance proceeds for losses to the Common Area for other than the repair, replacement or reconstruction of improvements on the Common Area.

13.2 Preservation of Common Area: Change in Method of Assessment. Unless the Association receives the prior written approval of (1) at least 67% of all first mortgagees (based on one (1) vote for each Mortgagee) of the Lots and (2) the Owners of at least 67% of the Lots (not including Lots owned by Declarant), the Association shall not be entitled:

(a) by act or omission to seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area, except to grant easements for utilities and similar or related purposes, as herein elsewhere reserved; or

(b) to change the ratio or method of determining the obligations, assessments, dues or other charges which may be levied against a Lot or the owner thereof.

Neither this Article XIII nor the insurance provisions contained in Article XII may be amended without the prior approval of all first Mortgagees.

13.3 Notice of Matters Affecting Security. The Association shall give written notice to any first Mortgagee of a Lot requesting such notice wherever:

(a) there occurs any substantial damage to or destruction of any Dwelling Unit or any part of the Common Area involving an amount in excess of, or reasonably estimated to be in excess of \$15,000.00. Said notice shall be given within ten (10) days after the Association learns of such damage or destruction; or

(b) there are any condemnation proceedings or proposed acquisition of a Dwelling Unit or of any portion of the Common Area within ten (10) days after the Association learns of the same the Association plans to abandon or terminate the planned unit development established by this Declaration.

13.4 Notice of Meetings. The Association shall give to any first Mortgagee of a Lot requesting the same, notice of all meetings of the Association, and such first Mortgagee shall have the right to designate in writing a representative to attend all such meetings.

13.5 Right to Examine Association Records. Any first Mortgagee shall have the right to examine the books, records and audit financial statements of the Association.

13.6 Right to Pay Taxes and Charges. First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any portion of the Common Area, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Area; and first Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association. Declarant, for the Association as owner of the Common Areas, hereby covenants and the Association by acceptance of the conveyance of the Common Areas, whether or not it shall be so expressed in such conveyance, is deemed to covenant and agree to make such reimbursement.

13.7 Rights upon Foreclosure of Mortgagee. Each holder of a first Mortgage (or Deed of Trust) on a Lot and any purchaser from it who comes into possession of the Lot by virtue of foreclosure of the mortgage, or by deed or assignment in lieu of foreclosure, or pursuant to a power of sale or otherwise will take the Lot free of, and shall not be liable for any claims for unpaid assessments and charges against the Lot which accrue prior to the time such holder comes into possession of the Lot.

ARTICLE XIV GENERAL PROVISIONS

14.1 Enforcement. This Declaration may be enforced by the Association, Declarant, and any Owner as follows:

(a) Breach of any of the provisions contained in the Declaration and the continuation of any such breach may be enjoined, abated or remedied by appropriate legal proceedings instituted by any Owner, including Declarant so long as Declarant owns a Lot in the Development, and by the Association. The offending party is entitled to such notice and rights to a hearing as provided for in the Bylaws. Any judgment rendered in any action or proceeding pursuant hereto shall include a sum for attorneys' fees in an amount as the court may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and court costs.

(b) The result of every act or omission whereby any of the provisions contained in this Declaration are violated in whole or in part is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance either public or private shall be applicable against every such result and may be exercised by any Owner, by the Association, and by the Declarant for so long as Declarant owns a Lot.

(c) The remedies herein provided for breach of the provisions contained in this Declaration shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

(d) The failure of the Association to enforce any of the provisions contained in this Declaration shall not constitute a waiver of the right to enforce the same thereafter.

(e) Any breach or amendment of the provisions contained in this Declaration, the Articles or the Bylaws shall not affect or impair the lien or charge of any first Mortgage made in good faith and for value on any Lot or the improvements thereon, provided that any subsequent Owner of such property shall be bound by such provisions of the Declaration, Articles and Bylaws, whether such Owner's title was acquired by foreclosure in a trustee's sale or otherwise.

14.2 Severability. Invalidation of any provision of this Declaration by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

14.3 Term. Unless earlier terminated pursuant to Section 14.5 below, the covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Association, the Declarant for so long as Declarant owns a Lot in the Development, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successive Owners and assigns, for a term of fifty (50) years from the date this Declaration is Recorded, after which the term shall be automatically extended for successive periods of ten (10) years unless a declaration of termination satisfying the requirements of an amendment to the Declaration as set forth in Section 14.5 is Recorded.

14.4 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of the Common Area. The article and section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine and neuter shall each include the masculine, feminine and neuter.

14.5 Amendment. Except as provided in and/or subject to the term (a) below, the consent of two-thirds (2/3rd) of the Voting Power present at any meeting duly called for such purpose, as explained by Article III, shall be required and shall be sufficient to amend this Declaration or the Plat. Notice of the substance of the proposed amendment shall be sent to all Owners at least ten (10) but not more than fifty (50) days prior to the meeting date. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by the Owners approving the amendments. In such instrument the Owners approving the amendments shall certify that the vote required by this Section for amendment has occurred, and, if approval of a specified percentage of Mortgagees is required for such amendment, that such approval has been obtained. The foregoing right of amendment shall, however, be subject to the following:

1. The consent of at least seventy-five percent (75%) of the Voting Power present at any meeting called for such purpose, as explained by Article III, and the consent of Mortgagees holding Mortgages on at least seventy-five (75%) percent of the Lots which are then subject to Mortgages shall be required for any amendment which would terminate the legal status of the Project as a subdivision.

Any amendment authorized pursuant to this Paragraph.5 shall be accomplished through the Recordation of an instrument executed by the Association. In such instrument an officer of the Association or member of the Board shall certify that the vote required by this Section for amendment has occurred, except for amendments unilaterally made by the Declarant.

Notwithstanding the foregoing, until December 31, 2015, Declarant shall have, and is hereby vested with, the right to unilaterally amend the Declaration or the Plat, or both, as the Declarant, in its absolute and sole discretion deems reasonable, necessary or desirable. Any amendment under this provision shall be accomplished through the recordation of an instrument executed by the Declarant. Approval of the Owners is

not required for such amendments. In the event that the foregoing power to amend by the Declarant is declared unenforceable, until all of the Lots in the Property have been sold to purchasers, Declarant shall have, and is hereby vested with, the right to unilaterally amend this Declaration as may be reasonably necessary or desirable; (a) to more accurately express the intent of any provision of this Declaration in light of then existing circumstances, information or mortgage requirements, (b) to better insure, in light of then existing circumstances or information, workability of the arrangement which is contemplated by this Declaration; or (c) to conform this Declaration, or any amendments thereto, to local ordinances, to Utah law, or to the requirements of law of any other jurisdiction or state where the project may be registered, or as may be amended from time to time, or to conform to the underwriters guidelines of major secondary market investors in order to facilitate the availability of financing.

14.6 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.

14.7 Notice. Any notice, including without limitation Notice of a violation of this Declaration, the Bylaws, or any Rules and Regulations of the Association, permitted or required to be delivered as provided herein shall be fair and reasonable if given in writing and maybe delivered either personally or by first class or registered mail. If delivery is made by mail, it shall be deemed to have been delivered three (3) business days after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Association. Such address maybe changed from time to time by notice in writing to the Association. Notwithstanding the foregoing, notice given by other means shall be deemed fair and reasonable if given in accordance with the Utah Revised Nonprofit Corporation Act.

14.8 Manager. The Association may carry out through a Manager any of its functions which are properly the subject of delegation. Any Manager so engaged may be an independent contractor or an agent or employee of the Association. Such Manager shall be responsible for managing the Property for the benefit of the Association and the Owners, and shall, to the extent permitted by law and the terms of a management agreement with the Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Association itself,

14.9 Terms of Management Agreement. Any agreement for professional management of the Development, or any other contract providing for services of the Declarant, sponsor, or builder, may not exceed three (3) years. Any such agreement must provide for termination by either party without cause and without payment of termination fee on not more than ninety (90) but not less than thirty (30) days written notice.

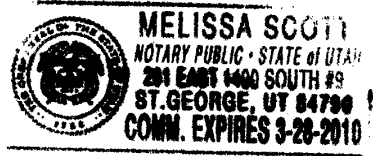
14.10 Rules and Regulations. The Board shall have the authority to promulgate and adopt Rules and Regulations as the Board deems necessary or desirable (i) to aid it in administering the affairs of the Association, (ii) to insure that the Property are maintained and used in a manner consistent with the interests of the Owners, (iii) to regulate the use of the Common Areas and to regulate the personal conduct of the Members and their guests thereon, and (iv) to establish penalties and fines for the infractions of any Rules and Regulations, this Declaration, or the Bylaws. Fines levied may be assessed as a Corrective Assessment against the Lot

IN WITNESS WHEREOF, Declarant executed this Declaration on the 13th day of Sept, 2006

R & K STAHELI FARMS

By: Ralph Staheli
Its: owner

On this the 13 day of September, 2006, personally appeared before me Melissa Scott, who being personally known to me (or satisfactorily proved to me), and who being by me duly sworn did say that he is the owner of R & K Staheli Farms and that he executed the foregoing Declaration on behalf of said R & K Staheli Farms, being authorized and empowered to do so by the governing documents of said R & K Staheli Farms or resolution of its owners, and he acknowledged before me that such R & K Staheli Farms executed the same for the uses and purposes stated therein.



Melissa Scott
Notary Public
My commission expires: 3-28-2010

DESERT FIELDS, LLC

By: [Signature]
Michon Palmer, Member/Manger

On this the 13 day of September, 2006, personally appeared before me Michon Palmer, who being personally known to me (or satisfactorily proved to me), and who being by me duly sworn did say that she is the Member/Manager of Desert Fields, LLC, a Utah limited liability company, and that she executed the foregoing Declaration on behalf of said limited liability company, being authorized and empowered to do so by the Operating Agreement of said Company or resolution of its members, and she acknowledged before me that such Company executed the same for the uses and purposes stated therein.



Melissa Scott
Notary Public
My commission expires: 3-28-2010

File No. 132218
Page No. 2

EXHIBIT "A" - LEGAL DESCRIPTION

Beginning at the Southeast Corner of Lot Forty (40), "DESERT MEADOWS SUBDIVISION", according to the Official Plat thereof, records of Washington County, said point being the East Quarter Corner of Section 26, Township 42 South, Range 15 West, Salt Lake Base and Meridian and running thence North 89°02'31" West 1008.16 feet along the boundary of said Subdivision and the Center Section line to a point on the Easterly right of way line of "Washington Fields Road", according to the Official Road Dedication Plat thereof, records of Washington County, said point also being a point on a 780.10 foot, Non-tangent, radius curve to the left, the radius point bears North 39°31'37" East; thence Southeasterly 143.66 feet along the arc of said curve and said right of way line through a central angle of 10°33'04" to the point of tangency; thence South 61°01'27" East 251.44 feet along said right of way line to the point of a 900.00 foot radius curve to the right; thence Southeasterly 844.63 feet along the arc of said curve and said right of way line through a central angle of 53°46'14" to a point on the boundary line of "SILVER FALLS @ WASHINGTON BENCH", according to the Official Plat thereof, records of Washington County; thence North 85°55'04" East 19.74 feet along said boundary line to the point of a 180.00 foot radius curve to the right; thence Southeasterly 54.78 feet along the arc of said curve and said boundary line through a central angle of 17°26'17" to the point of tangency; thence South 76°38'39" East 72.02 feet along said boundary line to the Southwest Corner of that particular Warranty Deed recorded as Entry Number 872646, Book 1627, Page 710, known as Parcel 2, Washington County Records; thence North 4°10'37" East 122.50 feet along said Deed line to the Southwest Corner of Parcel 1 of same said Warranty Deed; thence North 4°10'25" East 235.79 feet along said Deed Line; thence North 6°27'53" East 371.55 feet along said Deed line to a point on the West boundary of 'THE HEIGHTS @ WASHINGTON BENCH PHASE 1', according to the Official Plat thereof, records of Washington County, said point also being a point on the East line of said Section 26; thence North 0°13'30" East 152.52 feet along said boundary line and said Section line to the point of beginning.

(PROPOSED "DESERT FIELDS SUBDIVISION")