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ST. GEORGE, UT 84790

DOC # 20190038352

Amended Restrictive Covenants
Russell Shirts Washington County Recorder
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By HOPKINSON CRAIG

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**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS
AND RESTRICTIONS
MOCCASIN FLATS SUBDIVISION**

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**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS
AND RESTRICTIONS**

MOCCASIN FLATS SUBDIVISION

Washington County, Utah

This AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR MOCCASIN FLATS SUBDIVISION ("Amended and Restated Declaration") is made this 19 day of September 2019, by Ciel Investment Company, a Utah corporation ("Declarant").

RECITALS

A. Declarant holds both legal and equitable title to certain real property located in Washington County, Utah, which is described in Exhibit A attached hereto and incorporated herein by this reference (the "Property"). The Property consists or may consist of multiple legal subdivision parcels of real property.

B. By this Amended and Restated Declaration, Declarant desires and intends to impose certain restrictive covenants, covenants and easements on the development of the Property for the mutual protection and benefit of the Owners and to protect and enhance the Property values and aesthetic qualities of the Property.

C. On or about September 5, 2019, Declarant recorded a Declaration of Covenants, Conditions, Easements and Restrictions for Moccasin Flats Subdivision as Document No. 20190035907, in the Official Records of Washington County, Utah ("Original Declaration"). The Original Declaration is superceded and replaced in its entirety by this Amended and Restated Declaration which is hereafter referred to herein as the "Declaration."

C. The covenants, conditions and restrictions contained in this Declaration and in the Exhibits attached hereto shall be enforceable covenants and equitable servitudes and shall run with the land and shall benefit the Owners (defined below), Declarant, and their successors in interest.

NOW, THEREFORE, Declarant hereby declares, covenants and agrees that each of the Recitals A through C is incorporated into and made a part of this Declaration for all purposes and further declares, covenants and agrees as follows:

**ARTICLE I
DEFINITIONS**

1.1. "Accessory Structure"

means structures on the same Lot as a Dwelling Unit or Barn, the use of which is incidental to the use of the Dwelling Unit or Barn, and includes, without limitation, a guest house, storage sheds and other structures other than metal Quonset huts and Storage Containers which are strictly prohibited.

1.2. “Barn”

means an Improvement for housing Livestock, storing hay, feed and related agricultural uses. The definition shall include any stable attached to the Barn structure.

1.3. “Design Guidelines”

means the written review and operation standards for the development of the Property to be promulgated by the Architectural Committee pursuant to this Declaration, as the same may be amended from time to time.

1.4. “Dwelling Unit”

means the single-family residence which may include a guest house built or to be built on any Lot.

1.5. “Improvement(s)”

means any improvement now or hereafter constructed on the Property and includes anything which is a structure and/or appurtenances thereto of every type and kind, including but not limited to any Accessory Structure, building, out-building, Barn, structure, walkway, garage, road, driveway, parking area, screening wall, shed, covered patio, stairs, deck, fountain or pool.

1.6. “Livestock”

means (a) horses, cattle, goats, and donkeys; and (b) other useful animals typically kept or raised on a farm or ranch.

1.7. “Owner”

means the person or persons having fee simple title to any Lot, including the Declarant, but shall exclude any person or entity holding title for purposes of securing performance of an obligation.

1.8. “Pasture”

means the fenced portion of a Lot upon which all Livestock shall live.

ARTICLE 2 PROPERTY OVERVIEW

2.1. Property Subject to this Declaration

This Declaration is being recorded to establish a general plan for the development and use of the Property in order to protect and enhance the value and desirability of the Property. All of the property within the Property shall be held, sold and conveyed subject to this Declaration. By acceptance of a deed to any of the Property subject to this Declaration, each Owner, for himself, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, binds himself, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by this Declaration. In addition, each such person by so doing acknowledges that this Declaration sets forth a general scheme for the development and use of the Property and evidences his, her or its intent that all the provisions, restrictions, conditions, covenants, rules and regulations contained in this Declaration shall run with the land it encumbers and be binding on all subsequent and future Owners, grantees, purchasers, assignees, lessees and transferees thereof.

2.2. Single-Family Residence Development

Declarant intends that the Property will be developed into nineteen (19) lots (each a "Lot") which may, without obligation, be utilized for single family occupancy in detached dwellings ("Single Family Residential Use") in a subdivision known as the Moccasin Flats Subdivision (the "Subdivision"). Each one level single family residence shall have a minimum of One Thousand Seven Hundred Fifty (1750) square feet of living space excluding garage space. Each multi-level single family residence shall have a minimum of One Thousand Three Hundred Fifty (1350) square feet of living space on the ground floor excluding garage space.

2.3. Use Restrictions

Except as otherwise provided herein, each Lot may be used in any manner consistent with the requirements of applicable zoning and other land use ordinances and regulations. All Lots shall be used in accordance with the restrictions outlined in the Moccasin Flats Subdivision Plat recorded in the office of the Washington County Recorder, as amended from time to time, in the Design Guidelines (as defined below), and as set forth below:

2.3.1. All Lots utilized for Single Family Residential Use shall be used, improved and devoted, in whole or in part, to detached Single Family residential dwellings and associated accessory purposes, including Accessory Structures and Barns. For purposes herein "Single Family" shall mean a group of one or more persons, each related to the other by blood, marriage, adoption, or domestic partnership, or a group of no more than five persons who are not related to each other who are living together as a unit and who maintain a common household.

2.3.2. Lots utilized for Single Family Residential Use shall not be used for any business, trade, or similar activity, except that an Owner may conduct business activities within the Lot so long as: (a) the activity conforms to all zoning requirements for the Property; and (b) the activity does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property. Nothing herein shall prohibit the nightly or other short-term or long-term rental of any dwelling within the Property, which uses are expressly permitted subject to applicable federal, state or local law, statute, ordinance, rule or

regulation, including any such law promulgated by the County. Mere ownership of any of the Property shall not be deemed to constitute a business activity in violation of this provision.

2.3.3. No Dwelling Unit shall be occupied prior to completion of the Dwelling Unit thereon and the issuance of a certificate of occupancy by the County.

2.3.4. The following activities are prohibited within the Property:

2.3.4.1. Any activity that emits foul or noxious odors or creates noise or other conditions which tend to disturb the peace or threaten the safety or security of other Lots and/or their occupants.

2.3.4.2. Any activity that violates local, state or federal laws or regulations.

2.3.4.3. Accumulation of rubbish, trash or garbage; refuse containers shall not be visible from other Lots.

2.3.5. Permitted Improvements. No Improvement shall be erected, altered, placed, or permitted to remain on any Lot other than, the following as permitted by applicable zoning ordinances:

2.3.5.1. One or more single family Dwelling Units designated for residential use.

2.3.5.2. One or more Barns.

2.3.5.3. One or more Accessory Structures.

2.3.5.4. One or more private garages or guest houses

2.3.6. Pastures. All Pastures shall be fenced consistent with plans and specifications, approved by the Architectural Committee.

2.3.7. Livestock and Animal Restrictions. No animal shall be kept or maintained on any Lot except Livestock and conventional household pets (e.g. dogs, cats, small caged birds or fish) and only in such number as not to constitute a hazard, nuisance or annoyance to the Owners of adjoining Lots. Such permitted animals shall be kept on the Owner's Lot and shall not be allowed off the premises of the Owner's Lot except under restraint and in the company of the Owner, a member of the Owner's family or employee.

2.3.8. Number of Horses. The number of horses allowed on a Lot shall be determined pursuant to this paragraph 2.3.8.

2.3.8.1. There may be no more than one (1) horse for every two (2) Pasture Acres.

2.3.8.2. For purposes of this paragraph 2.3.8, mares with unweaned foals shall be considered to be one (1) horse.

2.3.9. Additional Livestock Provisions.

2.3.9.1. All waste from Livestock shall be handled and disposed of pursuant to applicable laws (including Washington County ordinances).

2.3.10. Vehicles. No inoperable vehicles shall be permitted on the Lot. Travel trailers, recreational vehicles and campers are permitted.

2.3.11. Site Built. All Improvements shall be conventionally constructed on site pursuant to the Design Guidelines. No mobile homes, manufactured homes, modular homes, Quonset huts, Storage Containers or similar structures shall be permitted on a Lot.

2.3.12. Temporary Structures. No portable or temporary building, shed, tent or other structure shall be constructed or maintained upon any Lot for storage or otherwise. Notwithstanding the foregoing, the Architectural Committee may allow such temporary structures as reasonable and necessary during approved construction of a permanent Improvement. Provided, however, temporary structures shall be removed from a Lot no later than nine (9) months following issuance of any building permit unless the Architectural Committee grants a written extension. Any such temporary construction facilities shall be located so as not to interfere with the aesthetic enjoyment of the Property, and shall be immediately removed from the Lot upon substantial completion of the Improvement.

2.3.13. Containers and Tanks. All fuel tanks, water tanks, grain storage tanks or other such equipment shall be located underground or screened by walls or suitable vegetation as not to be visible from any other Lot.

2.3.14. Trash. All trash or garbage shall be kept at all times in containers provided by the Owner and not visible from an adjoining Lot. Owners shall be responsible for the proper disposal of trash and garbage, or the Owner may elect to utilize the services of a disposal agency. No Owner shall burn any trash, garbage, rubbish or other similar material on a Lot.

2.3.15. Garages. Each Dwelling Unit should have an attached or detached garage or equivalent structure designed for storage of at least two automobiles and constructed pursuant to the Design Guidelines.

2.3.16. Signs. No commercial sign or other sign shall be erected or maintained on any Lot or Improvement within public view except as permitted by local Zoning ordinances. Real estate "For Sale" signs are permitted. Property identification and like signs identifying the Owner of a Lot or a farm name, are permitted. These restrictions shall not apply to restrict the Declarant from erecting such signs as the Declarant deems necessary in its sole discretion to assist the Declarant in selling any Lot.

2.3.17. Fences. All fencing must be maintained in good condition. All original developer fencing shall not be modified or changed and shall be maintained in good condition.

2.3.18. Hazardous Activities. No hazardous or unsafe activities shall take place on any Lot.

ARTICLE 3 ARCHITECTURAL CONTROL

3.1. Architectural Committee

. It is the intention and purpose of this Declaration to impose design and development standards of a type and nature that result in Dwelling Units and Improvements that are compatible with the Property and its surroundings. To accomplish this goal, the Declarant hereby establishes the Architectural Committee, which is empowered to oversee and enforce the architectural design standards.

3.2. Committee Members

. The Architectural Committee shall consist of three (3) members:

3.2.1. Two (2) members shall be designated by Declarant;

3.2.2. One (1) member that is chosen and mutually agreed to in writing by the other two Architectural Committee members.

3.3. Design Guidelines

. The Architectural Committee shall adopt, by majority vote, Design Guidelines that are consistent with this Declaration, for the purpose of ensuring that the natural landscape of the Property and the surrounding property are preserved to the greatest extent feasible, and that all Dwelling Units and Improvements are harmonious with the natural setting. The Design Guidelines shall be liberally interpreted in favor of the Owners of Lots and shall encourage structures that are appropriate for an agricultural, ranch and farm style subdivision. The Design Guidelines shall only be authorized to limit construction of manifestly incompatible and highly unusual or unorthodox structures.

3.4. Final Plan Review

. Owner shall submit a development plan ("Development Plan") to the Architectural Committee, containing such information, sketches, and details as necessary for the Architectural Committee to determine compliance with the Design Guidelines, including but not limited to the following: the location on the Lot of the exterior walls of the Dwelling Unit and all other structures or Improvements that are existing or to be constructed; drawings of elevations of all buildings, showing locations of windows, doors, roof pitches, decks and other exterior elements. The Architectural Committee shall confirm that such plan is consistent with the Design Guidelines and generally compatible and harmonious with the remainder of the Property. Within

fifteen (15) days of receipt of the Development Plan, the Architectural Committee shall respond in writing to the Owner indicating either that the Development Plan is approved, or indicating items that must be revised before the Architectural Committee will grant approval. If the Development Plan is not approved, the Owner shall, prior to proceeding with any work, revise the plan in accordance with the Architectural Committee's instructions and then re-submit to the Architectural Committee for approval in accordance with the above.

3.5. Compliance with Design Guidelines

. All Improvements constructed within the Property shall comply with the Design Guidelines.

3.6. Design Review Fee

. The Architectural Committee shall have the right to charge an Owner a reasonable fee for its review of Development Plans in accordance with Section 3.4 and 3.8 above, which fee shall be payable at the time the application is submitted to the Architectural Committee. Such fee shall be set at such reasonable level, not to exceed \$200, as the Architectural Committee may estimate will be necessary to defray the reasonable costs and expenses in reviewing and evaluating any such request or application, and may include an amount to cover the reasonable costs of professional consultation by architects, engineers and/or attorneys.

3.7. Municipal Authority Approval

. The approval required by the Architectural Committee pursuant to this Article 3 shall be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state or local law, statute, ordinance, rule or regulation, including any such law promulgated by the County.

3.8. Limitation on Review

. The Architectural Committee's review is limited to those matters provided in this Declaration. The Architectural Committee shall have no authority over the enforcement of building codes, zoning ordinances or other statutes, laws or other ordinances affecting the development or improvement of the Property.

3.9. Owner's Obligation to Maintain Lot and Improvements

. Each Owner shall maintain his, her or its Lot and all Improvements thereon, in a safe, sanitary and attractive condition.

3.10. Repair Following Damage

. In the event of a casualty loss or damage to the Improvements on a Lot, the Owner shall cause them to be restored to the same condition and appearance as that originally approved by the Architectural Committee.

**ARTICLE 4
EASEMENTS**

4.1. Utility and Equestrian Easement

. There is hereby created a nonexclusive easement fifteen (15) feet in width, measured inward from the lot lines for each Lot, in favor of the public utility providers who provide or will provide utility service to the Property, for reasonable installation, replacement, repair or maintenance of all utilities, including, but not limited to, gas, water, sewer, telephone, cable television and electricity, and including reasonable ingress and egress related thereto. By virtue of this easement, it shall be expressly permissible for the providing utility company to install and maintain the necessary equipment on each Lot, but no sewers, electrical lines, water lines or other utility or service lines may be installed or located on a Lot except as initially designed, approved and/or constructed by Declarant. The fifteen (15) foot easement for utilities may also be utilized for equestrian purposes. No motorized vehicle, including but not limited to 4 wheelers, side-by-sides or motorbikes, may be utilized within the equestrian/pedestrian easement.

4.2. Easements for Ingress and Egress

. There are hereby created nonexclusive easements for ingress and egress for pedestrian traffic over, through and across any public sidewalks, paths, walks and lanes that from time to time may exist within each Lot. There is also hereby created a nonexclusive easement upon, across and over all private streets or roadways, private driveways and private parking areas within the Property for vehicular and pedestrian ingress and egress for police, fire, medical and other emergency vehicles and personnel.

4.3. Additional Easements

. The Property shall also be subject to the easements created by the Subdivision Plat.

**ARTICLE 5
MAINTENANCE**

5.1. Improper Maintenance and Use of Lots

. No portion of any Lot shall be maintained so as to present a public or private nuisance, or as to substantially detract from the appearance or quality of the other Lots or other areas of the Property which are substantially affected thereby or related thereto.

**ARTICLE 6
TERM, TERMINATION AND AMENDMENT**

6.1. Term; Method of Termination

. This Declaration shall be effective upon the date of recordation hereof and, as amended from time to time shall continue in full force and effect for a term of fifty (50) years

from the date this Declaration is recorded. From and after said date, this Declaration, as amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by the then Owners of seventy percent (70%) of the total number of Lots together with the consent of Declarant within six (6) months prior to the expiration of the initial effective period hereof or any ten (10) year extension. This Declaration may be terminated at any time by the then Owners of seventy percent (70%) of the total number of Lots together with the written consent of Declarant. If the necessary votes and consents are obtained, Declarant shall cause to be recorded a certificate of termination, duly signed by Declarant and the approving Owners, with their signatures acknowledged. Thereupon these covenants shall have no further force and effect. For all purposes of this Declaration, each Lot shall have one (1) vote.

6.2. Amendments

. This Declaration may be amended by recording an amendment consented to by the then Owners of seventy percent (70%) of the total number of Lots (with all Lots in the same project counting as a single Lot) together with the written consent of Declarant. Such amendment shall be duly signed by Declarant and the approving Owners, with their signatures acknowledged, and shall be recorded in records of the Salt Lake County Recorder. No amendment shall be binding upon the holder of any mortgage or trust deed on any portion of the Property unless the mortgage or trust deed holder consents to the amendment in writing.

6.3. Unilateral Amendments

. Notwithstanding anything contained in this Declaration to the contrary, this Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; or (b) if such amendment is reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; or (c) if such amendment is deemed reasonably necessary by Declarant and does not have a material adverse impact on any Lot.

ARTICLE 7 GENERAL PROVISIONS

7.1. Severability

. Any determination by any arbitrator or court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

7.2. Change of Circumstances

. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Declaration.

7.3. References to this Declaration in Deeds

. Deeds to and instruments affecting any Lot or any other part of the Property may contain the covenants, conditions and restrictions herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any deed or instrument, each and all of the provisions of this Declaration shall be binding upon the grantee-Owner or other person claiming through any instrument and his, her or its heirs, executors, administrators, successors and assigns.

7.4. Captions

. All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the meaning or intent thereof.

7.5. Successors and Assigns of Declarant

. Any reference in this Declaration to Declarant shall include any successors or assigns of Declarant's rights and powers hereunder by written instrument.

7.6. Remedies

. Nothing in this Declaration shall be construed as limiting the rights and remedies that may exist at common law or under applicable federal, state or local laws and ordinances. The remedies available under this Declaration are cumulative, and not exclusive. The failure of any party to take any enforcement action shall not be construed as a waiver of the covenants contained in this Declaration in the future, or as to any similar violation.

7.7. Interpretation

. Except for judicial construction, Declarant shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by an arbitrator or court of competent jurisdiction, the Declarant's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefited or bound by this Declaration and provisions hereof.

[Signatures on Following Page]

IN WITNESS WHEREOF, Declarant has executed this instrument as of the date first set forth above.

DECLARANT:

CIEL INVESTMENT COMPANY
a Utah corporation

By: [Signature]
Name: Walter J Plumb III
Its: President

STATE OF UTAH

COUNTY OF SALT LAKE

The foregoing instrument was acknowledged before me this 19 day of SEPTEMBER, 2019, by WALTER J. PLUMB III the PRESIDENT of Ciel Investment Company., a Utah corporation, on behalf of such entity.



[Signature]
Notary Public

My Commission Expires:

10.16.20

EXHIBIT A

ALL OF THE WEST ONE-HALF OF THE WEST ONE-HALF OF SECTION 27, TOWNSHIP 42 SOUTH, RANGE 13 WEST OF THE SALT LAKE BASE AND MERIDIAN AND ALL OF THE WEST ONE-HALF OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 42 SOUTH, RANGE 13 WEST OF THE SALT LAKE BASE AND MERIDIAN MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST QUARTER CORNER OF SECTION 27, SAID TOWNSHIP AND RANGE, AND RUNNING THENCE N 0°10'05" E ALONG THE WEST LINE OF SAID SECTION 2643.26 FEET TO THE NORTHWEST CORNER OF SAID SECTION 27; THENCE S 89°43'40" E ALONG THE NORTH LINE OF SAID SECTION 27 1310.55 FEET TO THE WEST 1/16 CORNER OF SECTION 22 AND SAID SECTION 27; THENCE S 0°06'44" W ALONG THE 1/16 LINE 2643.91 FEET TO THE CENTER WEST 1/16 CORNER OF SAID SECTION 27; THENCE S 0°06'42" W ALONG THE 1/16 LINE 2641.38 FEET TO THE WEST 1/16 CORNER OF SAID SECTION 27 AND 34; THENCE S 0°06'45" W ALONG THE 1/16 LINE 2637.56 FEET TO THE CENTER WEST 1/16 CORNER AND THE QUARTER SECTION LINE OF SAID SECTION 34; THENCE N 89°46'22" W ALONG SAID QUARTER SECTION LINE 1319.59 FEET TO THE WEST QUARTER OF SAID SECTION 34; THENCE N 0°11'47" E ALONG THE WEST LINE OF SAID SECTION 34 2637.90 FEET TO THE NORTHWEST CORNER OF SAID SECTION 34 AND SOUTHWEST CORNER OF SAID SECTION 27; THENCE N 0°10'05" E ALONG THE WEST LINE OF SAID SECTION 27 2642.71 FEET TO THE POINT OF BEGINNING.