

After recording return to:

John K. M. Olsen
Fillmore Belliston & Israelsen, LC
Attorneys at Law
4692 North 300 West, Suite 200
Provo, UT 84604

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RANDALL A. COVINGTON
UTAH COUNTY RECORDER
2000 Sep 11 9:16 am FEE 70.00 BY SS
RECORDED FOR SPRINGVILLE CITY

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

**TOWNHOMES at CAMELOT VILLAGE
A Planned Development (Expandable)**

City of Springville, Utah County, Utah

This Declaration of Protective Easements, Covenants, Conditions, and Restrictions (the "Declaration") is made this 11 day of Sept, 2000, by **Gateway-Art City Residential, L.C.**, a Utah limited liability company, in its capacity as the owner and developer of Townhomes at Camelot Village, A Planned Development (Expandable) in the City of Springville, Utah County, Utah.

ARTICLE I

PURPOSE AND EFFECTUATION

1.01 **Purpose.** The purpose of this Declaration is to provide for the preservation of the values of Lots, Common Areas, and Units within the Development; for the maintenance of the Common Areas therein; and for the integration of the Development as a Neighborhood within Camelot Villages Planned Development in the City of Springville, Utah County, Utah.

1.02 **Effectuation.** From and after the effective date hereof: (a) Each part of the Development and each Lot lying within the boundaries of the Development shall constitute constituent parts of a single residential planned development; (b) The Development shall consist of the Lots and the Common Areas which are described and depicted on the Plat; (c) The Declaration for the Development shall consist of this document as the same may be modified or amended in accordance with the provisions hereof; and (d) The Plat of the Development shall consist of the instrument which is identified as **Plat "A", Townhomes at Camelot Village, Springville City, Utah County, Utah**, and recorded in the Public Records, as the same may be amended.

ARTICLE II

DEFINITIONS

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

Additional Land shall mean and refer collectively to those parcels of real property in the City of Springville set forth and described in **Exhibit A**, attached hereto and made a part hereof.

Articles shall mean and refer to the Articles of Incorporation of the Association, which shall be filed in the Office of the Division of Corporations and Commercial Code, State of Utah, as amended from time to time.

Assessment shall mean the amount which is to be levied and assessed against each Owner and the Owner's Lot or Unit and paid to the Association for Association expenses, whether Annual, Special or Specific Assessments.

Association shall mean Townhomes at Camelot Village Owners Association, a Utah nonprofit corporation, its successors and assigns, which shall own and manage the Development's Common Areas. Each Owner shall hold an appurtenant membership in the Association.

Board shall mean the Board of Trustees of the Association.

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

Common Areas shall mean all portions or parcels of the Development designated as Common Areas on the Plat, and shall include any and all amenities, landscaping, and improvements and the like thereon, together with all easements appurtenant thereto, as reflected on the Plat.

Common Assessment shall mean the charge by the Master Association against each Owner and the Owner's Lot or Unit to pay the Master Association's common expenses, including repairs, maintenance and management of the Common Elements.

Common Elements shall mean the real property and improvements, recreational amenities and the like owned and managed by the Master Association for the use, benefit and enjoyment of the total membership of the Master Association, including the Owners within the Development.

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

Declarant shall mean Gateway-Art City Residential, L.C., a Utah limited liability company, its successors and assigns, if any, as owner and developer of the Development.

Declaration shall mean this Declaration of Protective Easements, Covenants, Conditions, and Restrictions of Townhomes at Camelot Village, A Planned Development (Expandable), as the same may be supplemented or amended from time to time.

Development shall mean the expandable planned development known as Townhomes at Camelot Village as described in this Declaration and on the Plat and as it exists at any time.

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

Managing Agent shall mean any person or entity appointed or employed as Managing Agent by the Association.

Master Association shall mean Camelot Villages Master Owners Association, a Utah nonprofit corporation, in which each Owner holds an appurtenant Membership in addition to appurtenant membership in the Association.

Master Association Assessment shall mean the charge against each Owner and the Owner's Lot or Unit levied by the Master Association for the uses and purposes set forth in, and pursuant to the provisions of, the Master Declaration.

Master Declaration shall mean the Master Declaration of Covenants, Conditions and Restrictions and Reservations of Easements for Camelot Villages Planned Development to which the Development is subject as a Neighborhood within the Master Project.

Master Project shall mean the Camelot Villages Planned Development residential community located in the City of Springville, Utah County, Utah, of which the Development, as a Neighborhood, is an integral and appurtenant part.

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

Neighborhood shall mean any separate subdivision or condominium project within the Master Project, including the Development.

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

Plat shall mean and refer to the subdivision plat covering the Property entitled **Plat "A" Townhomes at Camelot Village, A Planned Development (Expandable), Springville City, Utah County, Utah**, prepared and certified to by Ronald M. Hodge, a Utah Registered Land Surveyor holding Certificate No. 377008, executed and acknowledged by Declarant, accepted by the City of Springville, and recorded in the of Public Records concurrently with this Declaration.

Property shall mean all the land covered by this Declaration and any Additional Land annexed into the Development as provided in ARTICLE III hereof. The initial Property shall consist of the land described in Section 3.01.

Public Records shall mean and refer to the Office of the Utah County Recorder, Provo, Utah.

Rules and Regulations shall mean and refer to those Rules and Regulations authorized, adopted and promulgated to the Owners from time to time by the Board pursuant to Section 12.03.

Specific Assessment shall mean a charge against a particular Owner or the Owner's Lot or Unit in compliance with the provisions of this Declaration, the Articles, Bylaws or Rules and Regulations of the Association, or any other charge designated as a Specific Assessment in this

Declaration, the Articles, Bylaws, or Rules and Regulations of the Association, together with costs, interest, attorney's fees, and other charges payable by such Owner pursuant to the provisions of this Declaration.

Trustee shall mean a member of the Board.

Unit shall mean an attached residential dwelling structure which is designed, constructed, and intended for use or occupancy as a single family residence on a Lot in the Development, together with any and all other improvements located on the same Lot and used in conjunction therewith whether located within or without said Unit but designated and designed to serve only that Unit such as decks, patios, air conditioning compressors or other such apparatus; provided, however, that roofs, exterior surfaces of Units (and/or the buildings in which Units exist) and patio fences shall be deemed to be Limited Common Areas designated for the exclusive use of the particular Units to which such roofs, surfaces and fences appertain, even though not designated as Limited Common Areas on the Plat.

ARTICLE III

PROPERTY DESCRIPTION AND ANNEXATION

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

A tract of land located in the northeast quarter of section 6, Township 8 South, Range 3 East, Salt Lake Base & Meridian. Commencing at a point on the west right-of-way line of 1750 West Street Street, Springville, Utah county, Utah, which point is located N 00°35'25" W 385.03 feet along the section line and WEST 1,804.06 feet, from the east 1/4 corner of section 6, Township 8 South, Range 3 East, Salt Lake Base & Meridian, said point being the point of beginning; thence S 89°24'18" W 3.42 feet to a point of curvature; thence 49.82 feet along the arc of a 214.00 foot radius curve to the right, through a central angle of 13°20'20", the chord bearing N 83°55'12" W 49.71 feet; thence N 77°15'02" W 125.89 feet to a point of curvature; thence 32.76 feet along the arc of a 116.00 foot radius curve to the left, through a central angle of 16°10'47", the chord bearing N 85°20'25" W 32.65 feet; thence N 03°38'49" W 144.43 feet; thence S 88°47'34" E 163.56 feet; thence N 00°35'42" W 83.49 feet; thence N 38°19'43" W 32.83 feet; thence N 89°18'07" W 265.78 feet; thence S 00°14'57" W 18.13 feet; thence N 89°45'03" W 146.50 feet; thence N 00°14'49" E 72.28 feet to a point on the south right-of-way line of 900 South Street, Springville, Utah county, Utah; thence S 89°18'07" E 439.62 feet along said south right-of-way line of said 900 South Street to a point of curvature; thence 69.67 feet along the arc of a 45.00 foot radius curve to the right, through a central angle of 88°42'25", the chord bearing S 44°56'54" E 62.92 feet to a point on said west right-of-way line of said 1750 West Street; thence S 0°35'42" E 293.74 feet along said west right-of-way line to the point of beginning. Containing 1.56 acres, more or less.

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

RESERVING UNTO DECLARANT, however, such easements and rights of ingress and egress over, across, through, and under the such real property and any improvements (including buildings) now or hereafter constructed thereon as may be reasonably necessary for Declarant (in a manner which is reasonable and not inconsistent with the provisions of this Declaration): (i) to construct and complete the buildings and Units described in this Declaration or in the Plat recorded concurrently herewith, and to do all things reasonably necessary or proper in connection therewith; (ii) to construct and complete on the Additional Land or any portion thereof such improvements as Declarant shall determine to build in its sole discretion; and (iii) to improve portions of such real property with such other or additional improvements, facilities, or landscaping designed for the use and enjoyment of all the Owners as Declarant may reasonably determine to be appropriate. If, pursuant to the foregoing reservations, such real property or any improvement thereon is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line shall exist. With the exception of such perpetual easements, the reservations hereby effected shall, unless sooner terminated in accordance with their terms, expire 10 years after the date on which this Declaration is recorded in the Public Records.

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

3.02 Division into Lots. The Development is hereby divided into six Lots, as set forth and described on the Plat, with appurtenant and equal rights and easements of use and enjoyment in and to the Common Areas, as well as appurtenant obligations pertaining to Assessments, maintenance, and similar matters, as set forth in this Declaration.

3.03 Annexation by Declarant. Declarant may, from time to time, and without the consent of any Owners, expand the Development subject to this Declaration by the annexation of all or part of the lands constituting the Additional Land. Subject to compliance with the conditions imposed by the following Section 3.04, the annexation of any such land shall become effective upon the recordation in the Public Records of a Plat of such Additional Land signed by the owner thereof and of a supplemental

declaration ("Supplemental Declaration") which (a) is signed by the then owner(s) of such Additional Land as Declarant; (b) describes the land to be annexed; (c) declares that the annexed land is to be held, transferred, sold, conveyed, and occupied as part of the Property subject to this Declaration; and (d) sets forth such additional limitations, restrictions, easements, covenants and conditions, not inconsistent with those of this Declaration, as are applicable to the annexed land. When any such annexation becomes effective, the annexed land shall become part of the Property and the Development and subject to the provisions of this Declaration and any amendment or supplement thereto.

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

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

(b) Declarant shall not effectuate any annexation of land which would cause the total number of Lots existing in the Development to exceed 140;

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

(d) The Additional Land added to the Development must be subdivided into Lots and Common Areas designed to be used for purposes similar to those contemplated by this Declaration, with all Units and Lots being similar in concept to that of such Units, Lots and uses in Plat "A" of the Development; provided, however, that in each succeeding phase of the Development the architectural style of the Units within such phase must remain consistent throughout such succeeding phase and in harmony with that of prior phases;

(e) All Common Areas covered by the Supplemental Declaration designated on the Plat related thereto shall be conveyed to the Association pursuant and subject to the provisions of Section 5.03 of this Declaration; and,

(f) Declarant's right to annex land to the Development shall expire 10 years after this Declaration is recorded in the Public Records.

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

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ARTICLE IV

DUTIES AND OBLIGATIONS OF OWNERS

4.01 **Maintenance and Repairs.** Each Owner shall at his own cost maintain his Lot and any improvements constructed thereon in good repair at all times, except for Unit exteriors, roofs, and patio fences which shall be maintained and repaired by the Association as provided in Section 12.01(d) of this Declaration. In the event of the damage or destruction of any Unit, the Owner of the Lot on which such Unit is situated shall either rebuild the same within a reasonable time or shall raze the remains thereof so as to prevent the unsightly appearance and dangerous condition of a partially destroyed building in the Development. **The painting or repainting, remodeling, rebuilding or modification of any Unit exteriors or parts thereof must be submitted to and approved by the DRC pursuant to its procedures.** Notwithstanding the obligation of the Association as set forth in Section 12.01(d), no Owner of any Lot in the Development shall openly or wantonly neglect his Lot or Unit or fail to do everything possible to keep the same in good and attractive condition and repair at all times.

4.02 **Owners Insurance.** Notwithstanding any insurance coverage required to be provided herein by the Association, each Unit Owner shall be responsible to procure and maintain in force at his own cost hazard insurance on personal contents and such liability coverage as is customary in projects such as the Development and which is consistent with each Owner's individual circumstances.

4.03 **Assessments and Rules Observance.** Each Owner shall be responsible for the prompt payment of any Assessments provided for in this Declaration and for the observance of the Rules and Regulations promulgated by the Association from time to time.

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

ARTICLE V

PROPERTY RIGHTS AND CONVEYANCES

5.01 **Easement Concerning Common Areas.** Each Lot shall have appurtenant thereto a non-exclusive right and easement of use and enjoyment in and to the Common Areas for their intended purposes. Such right and easement shall be appurtenant to and shall pass with title to each Lot and shall in no event be separated therefrom.

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

Lot No. _____ as identified on the Plat recorded in the Office of the Utah County Recorder as Entry _____, Map # _____ contained within Plat "____" Townhomes at Camelot Village, Springville City, Utah County, Utah, SUBJECT TO the Declaration of Protective Easements, Covenants, Conditions, and Restrictions of Townhomes at Camelot Village, recorded in the Office of the Utah County Recorder as Entry _____, Pages _____

(as said Declaration may have heretofore been amended or supplemented), TOGETHER WITH a right and easement of use and enjoyment in and to the Common Areas described, and as provided for, in said Declaration (as said Declaration may have heretofore been amended or supplemented).

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

5.03 Transfer of Title to Common Areas; Tax on Common Areas. After the initial development of the Common Areas, Declarant shall convey to the Association title to the various Common Areas free and clear of all liens, if possible, other than the lien of current general taxes and the lien of any non-delinquent charges and tax assessments imposed by governmental or quasi-governmental authorities. To the extent possible, tax assessments shall be prorated equally among all of the Lots in the Development and assessed to each Lot Owner as opposed to the Association separately. Declarant shall make every effort to release any liens on Common Areas which secure construction financing for the Development, leaving only the unconveyed Lots as security therefor.

5.04 Limitation on Easement. Each Lot's appurtenant right and easement of use and enjoyment respecting the Common Areas shall be subject to the following:

(a) The right of the Association to govern by reasonable Rules and Regulations the use of the Common Areas so as to provide for the enjoyment of the Common Areas in a manner consistent with the collective rights of all of the Owners;

(b) The right of Springville City, and any other governmental or quasi-governmental body having jurisdiction over the Property within the Development, to enjoy access and rights of ingress and egress over and across any open area contained within the Common Areas for the purpose of providing police and fire protection and providing any other governmental or municipal service; and

(c) The right of the Association to dedicate or transfer any part of the Common Areas to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association; provided that such dedication or transfer must first be assented to in writing by the Owners of Lots to which at least sixty percent (60%) of the total votes in the Association appertain.

5.05 Utility Easements. Each Lot is subject to appurtenant easements for underground lines for utility purposes under and through such portions of the Common Areas as are comprised of roads, walkways and landscaped areas. If any Owner utilizes such easement rights with respect to his Lot or Unit, he shall be responsible for the restoration to its former state of any portion of the Common Areas which may have been disturbed or damaged as a result.

5.06 Easements for Encroachments. If any structure or Unit improvement (including without limitation, roof or "bay window" overhangs) constructed on any Lot, whether or not constructed in replacement of the structure or improvement previously located thereon (so long as such structure or improvement is in substantially the same configuration and location as such prior structure or improvement), now or hereafter encroaches upon any other Lot or upon any portion of the Common Areas, a valid easement for such encroachment and the maintenance thereof, so long as it continues,

shall exist. If any structure or Unit (including without limitation, roof or "bay window" overhangs) on any Lot shall be partially or totally destroyed and then rebuilt in a manner intended to substantially duplicate the location and configuration of the structure so destroyed, minor encroachments of such structure upon any other Lot or upon any portion of the Common Areas (due to the reconstructed structure's being in a slightly different location than its predecessor) shall be permitted, and valid easements for such encroachments and the maintenance thereof, so long as they continue, shall exist.

5.07 Common Elements. As a member of the Master Association, each Owner has non-exclusive rights to the use, benefit and enjoyment of the Master Association's Common Elements (not to be confused with the Development's Common Areas), subject to the provisions of the Master Declaration.

ARTICLE VI

USE RESTRICTIONS

6.01 Use of Common Area. The Common Areas shall be used only in a manner consistent with their community nature and with the use restrictions applicable to Owners of Lots and Units set forth herein and in the Rules and Regulations.

6.02 Residential Use. The Property is zoned residential and is restricted to single family residential use pursuant to applicable provisions of Springville City zoning ordinances. The term "residential" as used herein shall be held and construed to exclude individual room letting or boarding and commercial and professional uses which are not the subject of a permit granted by Springville City pursuant to its then current home occupation ordinance. Each Lot, Unit, and Owner is subject to the uses and restrictions imposed by such zoning (including any parking restrictions), as well as to those set forth in Section 6.03.

6.03 General Master Project Restrictions. In order to avoid repetition of detailed provisions of general application to the Development as one of several Neighborhoods within the Master Project, ARTICLE 7 of the Master Declaration entitled "Restrictions on all Property", is hereby incorporated herein by reference in its entirety (as it may hereafter be amended) to the extent that the provisions thereof apply.

6.04 Leasing Restrictions. No lease of any Unit shall be for less than the whole thereof. All leases shall be subject to the provisions of this Declaration whether or not stated therein.

6.05 Fireplaces; Evaporative Coolers. No Unit within the Development shall (a) contain any coal or wood-burning fireplace, stove, or other similar device unless the same is EPA approved or unless such fireplace, stove or other device is fueled by natural gas only; or (b) contain a swamp cooler.

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ARTICLE VII

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DESIGN REVIEW

7.01 **General.** All matters of Design Review shall be governed by the provisions of ARTICLE 6 of the Master Declaration entitled "Design Review" which is hereby incorporated herein by reference in order to avoid the repetition of detailed provisions of general application to the Development as one of several Neighborhoods within the Master Project.

7.02 **Design Review Committee ("DRC").** The Association Board shall appoint a three-member committee to function as the DRC for the Development and to ensure that all construction of improvements, remodeling (including exterior repainting unless the same color as the original), and landscaping conforms to the Design Guidelines as defined in said ARTICLE 6 of the Master Declaration. If the DRC is not so appointed, then three members of the Board shall perform the duties required of the DRC.

7.03 **Declarant's Obligation.** Declarant hereby covenants in favor of each Owner (a) that all Units to be erected by it and all improvements of the Common Areas to be accomplished by it in the Development will be architecturally compatible with respect to one another; and (b) that on the date on which this Declaration is recorded in the Public Records, all Lots and Common Areas of the Development will be located approximately in the locations shown on the Plat.

ARTICLE VIII

INSURANCE

8.01 **Hazard Insurance.** The Board shall procure and maintain from a company or companies holding a financial rating of Class A or better from Best's Key Rating Guide, a policy or policies of hazard insurance in an amount or amounts equal to or exceeding the full replacement value (exclusive of the value of land, foundations, excavation and other items normally excluded from coverage) of the Common Areas owned by the Association and of all the Units (and/or buildings in which such Units exist, including all building service equipment, if any, and the like) and all roofs, surfaces and structures comprising Units (regardless of any definition thereof in ARTICLE II pertaining to "deemed Limited Common Area"), **but not the contents thereof**, with an Agreed Amount Endorsement or its equivalent, if available, or an Inflation Guard Endorsement and such other endorsements as the Board may deem to be reasonable. Such insurance policy or policies shall name the Association as insured for the benefit of the Owners and shall afford protection, to the extent applicable, against at least the following:

- (a) loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and by vandalism, malicious mischief, windstorm, and water damage; and
- (b) such other risks as shall customarily be covered with respect to facilities similar in construction, location and use.

8.02 **Liability Insurance.** The Board shall procure and maintain from a company or companies holding a financial rating of Class A or better from Best's Key Rating Guide a policy or policies of public liability insurance to insure the Association, the Board, the Managing Agent and employees of the

Association and the Owners against claims for bodily injury and property damage arising out of the conditions of the Common Areas or activities thereon under a Comprehensive General Liability form. Such insurance shall be for such limits as the Board may decide, but not less than those limits customarily carried in connection with properties of comparable character and usage in the County of Utah nor less than \$1,000,000 for personal injury and property damage arising out of a single occurrence, such coverage to include protection against water damage liability, liability for non-owned and hired automobile, liability for the property of others and such other risks as shall customarily be covered with respect to property similar in construction, location and use. The policy shall contain a "Severability of Interest" endorsement which shall preclude the insurer from denying the claim of any Owner because of negligent acts of the Association or other Owners and a cross-liability endorsement pursuant to which the rights of the named insureds as between themselves are not prejudiced. The policy shall contain a provision that it may not be canceled or substantially modified by the insurer unless it gives at least 30 days' prior written notice thereof to each insured. Any such coverage procured by the Board shall be without prejudice to the right of the Owners to insure their personal liability for their own benefit at their own expense.

8.03 Additional Insurance; Further General Requirements. The Board may also procure insurance which shall insure the Common Areas and the Association or the Owners and others against such additional risks as the Board may deem advisable. Insurance procured and maintained by the Board shall not require contribution from insurance held by any of the Owners or their Mortgagees. Each policy of insurance obtained by the Board shall, if reasonably possible, provide:

- (a) a waiver of the insurer's right of subrogation against the Association, the Owners and their respective directors, officers, agents, employees, invitees and tenants;
- (b) that it cannot be canceled, suspended or invalidated due to the conduct of any particular Owner or Owners;
- (c) that it cannot be canceled, suspended or invalidated due to the conduct of the Association without a prior written demand that the defect be cured; and
- (d) that any "no other insurance" clause therein shall not apply with respect to insurance maintained individually by any of the Owners.

8.04 Fidelity Coverage. The Association shall maintain fidelity coverage to protect against dishonest acts on the part of officers, trustees, managing agents, directors and employees of the Association and all others (including volunteers) who handle, or are responsible for handling, funds of the Association. In that event, such fidelity bonds shall:

- (a) name the Association as an obligee;
- (b) be written in an amount based upon the best business judgment of the Association and shall not be less than the estimated maximum of funds (including reserve funds) in the custody of the Association or the Managing Agent at any given time during the term of each bond, but in no event be less than a sum equal to three months' assessment on all Lots plus reserve funds;
- (c) contain waivers of any defense based upon the exclusion of volunteers or persons who serve without compensation from any definition of "employee" or similar expression; and

(d) provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least 30 days' prior written notice to the insured.

8.05 Review of Insurance. The Board shall periodically, and whenever requested by Owners entitled to exercise at least twenty percent (20%) of the outstanding votes in the Association, review the adequacy of the Association's insurance program and shall report in writing the conclusions and action taken on such review to the Owner of each Unit and to the holder of any Mortgage on 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 any Owner and any Mortgagee.

8.06 Unit Owners Contents Policies. Each Unit Owner shall be responsible to purchase and maintain in force a condominium/townhome unit owner contents policy (State Farm HO6 or equivalent) (the "contents policy"). All claims for damage to an individual Unit must first be submitted by the Owner to the insurer under his contents policy. The Association will not be required to file claims on its master policy for any damage that either should or would have been covered under an Owner's contents policy.

8.07 Other Insurance Provisions. All insurance required pursuant to this ARTICLE VIII shall be written by insurers licensed in the State of Utah. Notwithstanding anything in this ARTICLE VIII to the contrary, any insurance required to be obtained by the Association pursuant to Sections 8.01, 8.02, 8.03 or 8.04 of this ARTICLE VIII shall be required only to the extent that such coverage is reasonably obtainable at reasonable rates and is customarily obtained with respect to improvements or facilities having the same or similar characteristics of the Development's Common Areas and Units or risks being insured.

ARTICLE IX

RIGHTS OF MORTGAGEES

9.01 Title and Mortgagee Protection. A breach of any of the covenants, provisions, or requirements of this Declaration shall not result in any forfeiture or reversion of title or of any other interest in a Lot or any other portion of the Property. A breach of any of the covenants, provisions, or requirements of this Declaration shall not defeat, impair, or render invalid the lien of or other rights under any Mortgage. Unless and until it enters into possession or acquires title pursuant to foreclosure or any arrangement or proceeding in lieu thereof, any Mortgagee interested under any Mortgage affecting a Lot or any other portion of the Property shall have no obligation to take any action to comply with, and may not be compelled to take any action to comply with, any of the covenants, provisions, or requirements of this Declaration (other than those, if any, concerning a consent or approval to be given by a Mortgagee, in the event a Mortgagee's failure to give the same is wrongful). No amendment to this Declaration shall in any way affect the rights of any Mortgagee interested under a Mortgage which is in effect at the time of the amendment concerned or the rights of any successor in interest or title to such Mortgagee, either before or after such Mortgagee or its successor enters into possession or acquires title pursuant to foreclosure, or any arrangement or proceeding in lieu thereof, unless such Mortgagee has consented in writing to such amendment.

9.02 Preservation of Common Area. The Common Areas shall remain substantially of the same character, type and configuration as when such Common Areas became part of the Development. Unless the Association shall receive the prior written approval of (a) all first Mortgagees of Lots and

(b) the Owners of all Lots, the Association shall not be entitled by act or omission to abandon, partition, subdivide, encumber, sell, transfer or materially modify the Common Areas, except to grant reasonable easements for utilities and similar or related purposes.

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

- (a) there is any material default by the Owner of the Lot subject to the Mortgage in performance of any obligation under this Declaration or the Articles of the Association which is not cured within 60 days after default occurs; or
- (b) damage to the Common Areas from any one occurrence exceeds \$10,000; or
- (c) there is any condemnation or taking by eminent domain of any material portion of the Common Areas.

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

9.05 Right to Examine Association Records. Any Mortgagee shall, upon request, have the same right to inspect the books and records of the Association and receive financial statements as the Owner of the Lot securing the Mortgage.

9.06 Right to Pay Taxes and Charges. 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 Areas and may pay overdue premiums on insurance policies pertaining to the Common Areas, or secure new insurance coverage pertaining to the Common Areas on the lapse of a policy; and Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

9.07 No Priority Accorded. No provision of this Declaration gives or may give a Lot Owner or any other party priority over any rights of Mortgagees pursuant to their respective Mortgages in the case of a distribution to Lot Owners of insurance proceeds or condemnation awards for loss to or taking of Lots and/or the Common Areas.

9.08 Construction. In the event another provision or clause of this Declaration deals with the same subject matter as is dealt with in any provision or clause of this ARTICLE IX, the provision or clause which results in the greatest protection and security for a Mortgagee shall control the rights, obligations, or limits of authority, as the case may be, applicable to the Association with respect to the subject concerned.

ARTICLE X

PARTY WALLS

10.01 General Rules of Law to Apply. Each wall to be built as a part of the original construction of any Unit and placed substantially on a dividing line between any two 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 damage due to negligence or willful acts or omissions shall apply thereto.

10.02 Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

10.03 Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the Owner of another Lot thereafter makes use of the wall, such other Owner shall contribute to the cost of restoration thereof in proportion to such use. The foregoing provision shall not prejudice, however, the right of any Owner to call for a larger contribution from another Owner under any rule of law regarding liability for negligent or willful acts or omissions.

10.04 Weatherproofing. Notwithstanding any other provision of this ARTICLE X, an Owner who, by his negligent or willful act, causes a party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

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

ASSOCIATION BYLAWS

THE ASSOCIATION'S BYLAWS ARE HEREBY EMBODIED IN THIS DECLARATION AS ARTICLES XI, XII AND XIII. THE MISCELLANEOUS PROVISIONS OF ARTICLE XIV OF THIS DECLARATION SHALL BE APPLICABLE TO BOTH THE BYLAW PROVISIONS AND THE OTHER PROVISIONS IN THIS DECLARATION.

ARTICLE XI

BYLAWS - MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

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

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

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

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

(i) the expiration of 90 days following the date on which the total outstanding Class A voting rights, other than those held by Declarant, equal the total number of Class B voting rights to which Declarant is entitled pursuant to the provisions of Section 11.02(b); or

(ii) on December 31, 2005; or

(iii) upon surrender of the Class B voting rights by Declarant in writing to the Association. Upon termination of the Class B voting rights, all members including Declarant shall have equal voting rights as to all matters.

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

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

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

11.06 Annual Meetings. Annual meetings of the membership of the Association shall be held each year beginning in the year 2002 on such month, day and time as is set forth in the notice therefor; provided, that after the first such annual meeting, a month other than the month of the initial meeting may be chosen if it is deemed by the membership to be more convenient. At such annual meetings there shall be elected Trustees of the Board, as needed, pursuant to the provisions of this Declaration. Financial and budget reports shall also be presented at such meetings as well as other business of the Association properly placed before each meeting.

11.07 Special Meetings. The President shall call a special meeting of the Owners as directed by a resolution of the Board or on a petition signed by Owners holding at least thirty percent (30%) of the total votes of the Association and having been presented to the Secretary. No business shall be transacted at a

special meeting except as stated in the notice therefor unless consented to by a majority of the Owners present, either in person or by proxy.

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

11.09 Quorum. Except as provided in Section 13.10, Owners present in person or by proxy at any membership meeting duly called pursuant to notice shall constitute a quorum at all meetings, both annual and special; provided, however, that such Owners collectively be entitled to cast at least forty percent (40%) of the total Association votes eligible to vote.

11.10 Adjourned Meetings. If any meeting of Owners cannot be organized because a quorum is not present, the Owners who are present either in person or by proxy may adjourn the meeting to a time not less than 48 hours nor more than 45 days from the time the original meeting was called, at which time the requirements for a quorum shall be reduced by one-half that required at the immediately preceding meeting.

11.11 Officers. The Association shall have a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by and from the Board. The Board may, if needed, appoint an Assistant Secretary and Assistant Treasurer. Only the offices of Secretary and Treasurer may be filled by the same person. The officers shall be elected by the Board in an organizational meeting of the Committee immediately following each annual meeting of Owners at which the new Board has been elected; provided that until the Board is elected by the Owners pursuant to Section 11.13, the officers will be appointed by Declarant.

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

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

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

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

11.12 **Initial Composition of Board: Declarant Control.** Declarant alone shall have the right to select the initial Board of Trustees which may be composed of three Trustees, none of whom need be Owners. Such right of the Declarant to appoint the Board shall remain in Declarant until the termination of the Class B voting rights as provided in Section 11.02(b) at which time the Association shall proceed to elect members of the Board in accordance with the Association's Bylaws as set forth in Section 11.13.

11.13 **Board of Trustees: Owner Control; Composition, Election, Vacancies.** The Association, through its Board of Trustees, is responsible for the maintenance of any Common Areas, the determination, imposition and collection of Assessments, the enforcement of the provisions of this Declaration and, in general, the preservation of the residential quality and character of the Development to the benefit and general welfare of the Owners. Subject to the provisions of Section 11.12, the Board shall be composed of five Trustees, each of whom shall be an Owner (or an officer, director, or agent of a non-individual Owner). At the first meeting of Owners to elect a Board of Trustees two shall be elected to a three-year term, two to a two-year term, and one to a one-year term. As Trustees' terms expire, new Trustees shall be elected for three-year terms and shall serve on the Board until their successors are elected. Vacancies on the Board shall be filled by the remaining Trustees from among the Owners and such appointees shall serve until the next annual meeting of Owners when their successors shall be elected for the unexpired term of the Trustee they were appointed to replace. The Owners may increase the maximum number of Trustees to seven at any meeting of Association members.

11.14 **Master Association Board.** There shall be elected from among the Board of Trustees elected pursuant to Section 11.13 one Trustee who shall serve as a Trustee on the Board of Trustees of the Master Association pursuant to the Articles and Bylaws thereof.

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

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

ARTICLE XII

BYLAWS - DUTIES AND POWERS OF THE ASSOCIATION

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

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

(b) The Association shall accept title to all Common Areas conveyed to it, whether by Declarant or by others, provided the same is free and clear of liens and encumbrances (as provided in Section 5.03).

(c) The Association shall maintain, repair and replace any structural Common Areas and shall maintain and replace as needed all landscaping and plantings upon the Common Areas.

(d) In connection with its duties to maintain and repair Common Areas, the Association will provide maintenance and repair upon the exterior surfaces and roofs of the Units (and/or the buildings in which such Units exist), painting, replacing, and caring for roofs, gutters, downspouts, exterior surfaces, trim and other exterior improvements, **except glass surfaces**, which the Board may deem to require uniform appearance or maintenance.

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

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

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

12.02 Powers and Authority of the Association. The Association shall have all the powers set forth in its Articles of Incorporation and Bylaws, together with its general powers as a nonprofit corporation, and the power to do any and all things which may be authorized, required or permitted to be done by the Association under and by virtue of the Declaration or the Bylaws, including the power to levy and collect Assessments as hereinafter provided. Without in any way limiting the generality of the foregoing, the Association shall have the following powers:

(a) At any time and from time to time and without liability to any Owner for trespass, damage or otherwise, to enter upon any Lot for the purpose of maintaining and repairing such Lot or any improvement thereon if for any reason the Owner fails to maintain and repair such Lot or improvement as required herein. The Association shall also have the power and authority from time to time in its own name, on its own behalf, or in the name and behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the Declaration, the Bylaws or any Rules and Regulations promulgated by the Board, or to enforce by mandatory injunction or otherwise all of the provisions of the Declaration, the Bylaws and such Rules and Regulations.

(b) In fulfilling any of its duties under the Declaration, including its duties for the maintenance, repair, operation or administration of the Common Areas and Lots (to the extent necessitated by the failure of the Owners of such Lots) or in exercising any of its rights to construct improvements or other work upon any of the Common Areas, the Association shall have the power and authority to obtain, contract and pay for, or otherwise provide for:

- (i) Construction, maintenance, repair and landscaping of the Common Areas on such terms and conditions as the Board shall deem appropriate;
- (ii) Such insurance policies or bonds as the Board may deem appropriate for the protection or benefit of the Association, the members of the Board and the Owners;
- (iii) Such Common Area related utility services as the Board may from time to time deem necessary or desirable;
- (iv) The services of architects, engineers, attorneys and certified public accountants and such other professional or nonprofessional services as the Board may deem desirable;
- (v) Fire, police and such other protection services as the Board may deem desirable for the benefit of the Owners or any portion of the Development; and
- (vi) Such materials, supplies, furniture, equipment, services and labor as the Board may deem necessary.

12.03 Association Rules and Regulations. The Board from time to time, subject to and not inconsistent with the provisions of the Declaration or the Bylaws, may adopt, amend, repeal and enforce reasonable Rules and Regulations governing, among other things: (a) the use of the Common Areas; (b) the use of any streets, driveways or parking areas owned by the Association; (c) the collection and disposal of refuse; (d) uses and nuisances pertaining to the Development; and (e) all other matters concerning the use and enjoyment of the Property and the conduct of Owners and their invitees within the Development.

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

ARTICLE XIII

BYLAWS - ASSESSMENTS

13.01 Personal Obligation and Lien. Each Owner shall, by acquiring or in any way becoming vested with his interest in a Lot, be deemed to covenant and agree to pay to the Association the Annual and any Special Assessments and Specific Assessments described in this ARTICLE XIII, together with late payment fees, interest and costs of collection, if and when applicable. All such amounts shall be, constitute, and remain: (a) a charge and continuing lien upon the Lot with respect to which the Assessment is made until fully paid; and (b) the personal, joint and several obligation of the Owner or Owners

of such Lot at the time the Assessment falls due. No Owner may exempt himself or his Lot from liability for payment of Assessments by waiver of his rights in the Common Areas or by abandonment of his Lot. In a voluntary conveyance of a Lot, the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments, late payment fees, interest and costs of collection, including reasonable attorney's fees, which shall be a charge on the Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.

13.02 Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purpose of promoting the Development, the interests of the Owners therein, paying costs properly incurred by the Association, and the maintenance, operation and carrying of the Common Areas. The use made by the Association of funds obtained from assessments may include, but shall not be limited to, payment of the cost of: taxes; insurance premiums on policies required of the Association hereunder; maintenance, repair, and improvement of the Common Areas; payment of any basic coverage cable TV providing coverage availability to each Unit in the Development; establishment and funding of a reserve to cover major repair or replacement of improvements within Common Areas; and any expense necessary or desirable to enable the Association to perform or fulfill its obligations, functions or purposes under the Declaration, its Articles of Incorporation, Bylaws or Rules and Regulations.

13.03 Annual Assessments. Annual Assessments shall be computed and assessed against all Lots in the Development based upon advance estimates of the Association's cash requirements to provide for payment of common costs as set forth in Section 13.02.

13.04 Annual Budget. Annual Assessments shall be determined on the basis of a fiscal year ending December 31; provided the first fiscal year shall begin on the date of recordation of this Declaration in the Public Records. On or before December 15 of each fiscal year the Association shall prepare and furnish to each Owner an operating budget for the upcoming fiscal year. The operating budget for the first fiscal year shall be prepared and furnished to each Owner within 30 days of such Owner's initial purchase. The budget shall itemize the estimated cash requirements for such fiscal year, anticipated receipts, reserves, and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the Annual Assessments for the upcoming fiscal year and as the major guideline under which the Development shall be operated during such annual period.

13.05 Notice and Payment of Annual Assessments. Except with respect to the fiscal period ending December 31, 2000, the Association shall notify each Owner as to the amount of the Annual Assessment against his Lot on or before December 15 of the year preceding the year for which such Annual Assessment is made. Each Annual Assessment shall be payable in 12 equal monthly installments, one such instalment due on the first day of each calendar month during the fiscal year to which the Assessment relates; provided, however, the Annual Assessments for the fiscal period ending December 31, 2000, shall be based upon such portion of the calendar year 2000 as follows the date of recordation of the Declaration in the Public Records and shall be payable in such instalments and at such times as the Association, in the sole discretion of its Board of Trustees, may determine. The failure of the Association to give timely notice of any Annual Assessment as provided herein shall not be deemed a waiver of or modification in any respect of the provisions of the Declaration, or a release of any Owner from the obligation to pay such Assessment or any other Assessment; but the date when the payment shall become due in such case shall be deferred to a date 15 days after notice of such Assessment shall have been given to the Owner in the manner provided in Section 14.01.

13.06 Initial and Transfer Fees. In addition, each Owner (other than Declarant), shall be required to prepay at the time of purchase of his Unit, **whether as a first time or subsequent Owner**, a sum equal to three times the then monthly instalment of the Annual Assessment, which sum shall be in addition to any proration of Assessment which may be due for the month in which such purchase takes place. Such fees shall become part of the Association's general fund to be utilized as necessary.

13.07 Maximum Annual Assessment. Until January 1 of the calendar year immediately following the conveyance of the first Unit to an Owner, the maximum Annual Assessment shall not exceed the amount per Lot that is determined by the Association pursuant to Section 13.04. From and after January 1 of the calendar year immediately following the conveyance of the first Unit to an Owner, the maximum Annual Assessment may be increased each calendar year thereafter by not more than fifteen percent (15%) above the maximum Annual Assessment for the previous year without the vote of Owners entitled to cast a majority of the Association votes.

13.08 Special Assessments. The Association may levy Special Assessments for the purpose of defraying, in whole or in part: (a) any expense or expenses not reasonably capable of being fully paid with funds generated by Annual Assessments; or (b) the cost of any construction, reconstruction, or unexpectedly required addition to or replacement of amenities, infrastructure or improvements within the Common Areas. Any such Special Assessment shall be apportioned among and assessed to all Lots in the same manner as Annual Assessments. Such Special Assessments must be assented to by at least sixty percent (60%) of the votes of the membership which Owners present in person or represented by proxy are entitled to cast at a meeting duly called for such purpose. Written notice setting forth the purpose of such meeting shall be sent to all Owners at least 10 but not more than 30 days prior to the meeting date.

13.09 Uniform Rate of Assessment. All Annual and Special Assessments authorized by Sections 12.03 and 12.08, respectively, shall be fixed at a uniform rate for all Lots; provided, however, that until a Lot has been both fully improved with a Unit and occupied for the first time for residential purposes, the Annual and Special Assessments applicable to such Lot shall not be due and payable. During the period of time that Declarant holds the Class B voting rights in the Association if assessed fees collected by the Association fail to adequately meet Association expenses, then Declarant shall pay any shortfall.

13.10 Quorum Requirements. The quorum at any Association meeting required for any action authorized by Section 13.08, above, shall be as follows: At the first meeting called, the presence of Owners or proxies entitled to cast sixty percent (60%) of the total Association votes eligible to vote shall constitute a quorum. If a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirements set forth in Section 13.08, above) at which a quorum shall be one-half ($\frac{1}{2}$) of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held less than 48 hours nor more than 45 days following the immediately preceding meeting.

13.11 Specific Assessment. In addition to the Annual Assessment and any Special Assessment authorized pursuant to Sections 12.03 and 12.08, above, the Board may levy at any time Specific Assessments (a) on every Lot especially benefitted (i.e., benefitted to a substantially greater degree than any other Lot) by any improvement to adjacent roads, sidewalks, planting areas or other portions of the Common Areas made on the written request of the Owner of the Lot to be charged; (b) on every Lot the Owner or occupant of which shall cause any damage to the Common Areas necessitating repairs; and (c) on every Lot as to which the Association shall incur any expense for maintenance or repair work

performed, or enforcement action taken, pursuant to any of the provisions of the Declaration. The aggregate amount of any such Specific Assessment shall be determined by the cost of such improvements, repairs, maintenance or enforcement action, including all overhead and administrative costs, and all attorney's fees and costs, and shall be allocated among the affected Lots according to the magnitude of special benefit or cause of damage or maintenance or repair work or enforcement action, as the case may be, and such Assessment may be made in advance of the performance of work. If a special benefit arises from any improvement which is part of the general maintenance or operation obligations of the Association, it shall not give rise to a Specific Assessment against the Lots benefitted.

13.12 Master Association Assessments. Pursuant to the Master Declaration, all Lots and Units within the Master Project, including those within the Development, are assessable for certain purposes as set forth therein. The Master Association may require that the Association for the Development collect any of such Master Association charges (except Specific Assessments) as a matter of convenience and remit the sums assessed by the Master Association to it as directed.

13.13 Certificate Regarding Payment. Upon the request of any Owner or prospective purchaser or encumbrancer of a Lot and upon the payment of a reasonable fee to the Association to cover administrative costs, the Association shall issue a certificate stating whether or not payments of all Assessments respecting such Lot are current and, if not, the amount of the delinquency. Such certificate shall be conclusive in favor of all persons who rely thereon in good faith.

13.14 Effect of Nonpayment; Remedies. Any Assessment (whether Annual, Special or Specific) not received within 10 days of the date on which it or any instalment thereof becomes due shall be subject to a late charge not to exceed 5% thereof, which, together with interest and costs of collection, shall be, constitute, and remain a continuing lien on the affected Lot. If any Assessment is not received within 10 days after the date on which it becomes due, the amount thereof shall also bear interest from the due date at the rate of one percent (1%) per month; and the Association may bring an action against the Owner who is personally liable therefor or may foreclose its lien against the Lot pursuant to the provisions of the Utah Code, 1953, as amended, applicable to the exercise of powers of sale in deeds of trust, by foreclosure as a mortgage or in any other manner permitted by law. Any judgment obtained by the Association in connection with the collection of delinquent Assessments and related charges shall include reasonable attorney's fees, court costs and every other expense incurred by the Association in enforcing its rights. Failure of the Association to promptly enforce any remedy granted pursuant to this Section 13.13 shall not be deemed a waiver of any such rights.

13.15 Subordination of Lien to First Mortgages. The lien of the Assessments provided herein shall be subordinate to the lien of any first Mortgage given in the first instance to a bank, savings and loan association, insurance company or other institutional lender; and the holder of any such Mortgage or purchaser who comes into possession of or becomes the Owner of a Lot by virtue of the foreclosure of such first Mortgage or the exercise of a power of sale under such first Mortgage, or by deed in lieu of foreclosure, shall take free of such assessment lien as to any Assessment instalment which accrues or becomes due prior to the time such holder or purchaser comes into possession or ownership of such Lot; provided, that to the extent there are any proceeds of the sale on foreclosure of such first Mortgage or by exercise of such power of sale in excess of all amounts necessary to satisfy all indebtedness secured by and owed to the holder of such first Mortgage, the lien shall apply to such excess. No sale or transfer of a Lot in connection with any foreclosure of a first Mortgage shall relieve any Lot from the lien of any Assessment instalment thereafter becoming due.

13.16 No Abatement. No diminution or abatement of any Assessments under the Declaration shall be claimed or allowed for inconvenience, annoyance or discomfort arising from (a) any construction (or lack of construction) within the Development; (b) the making of (or failure to make) any repairs or improvements to or the maintenance of any Common Areas of the Development, or any part thereof; or (c) from any action taken to comply with the provision of the Declaration or with the laws, ordinances, regulations, rules, or orders of any governmental authority.

ARTICLE XIV

MISCELLANEOUS

14.01 Notices. Any notice required or permitted to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly furnished if delivered or mailed, postage prepaid, to the person named as the Owner at the latest address for such person, as reflected in the records of the Association at the time of delivery or mailing. Any notice required or permitted to be given to the Association may be given by delivering or mailing the same to the Managing Agent or any officer or Trustee of the Association or to the Association's Registered Agent as reflected in the Association's records at the Division of Corporations, Utah State Department of Commerce. Any notice required or permitted to be given to the Design Review Committee may be given by delivering or mailing the same to the Managing Agent or the Association or any member of the Design Review Committee.

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

14.03 Consent in Lieu of Vote. In any case in which this Declaration requires for authorization or approval of a transaction the assent or affirmative vote of a stated percentage or number of votes outstanding in the Association or of the Owners, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Owners entitled to cast at least the stated percentage or number of all membership votes then outstanding in the Association, unless a higher percentage or a greater number is required by law. The following additional provisions shall govern any application of this Section 14.03:

- (a) All necessary consents must be obtained prior to the expiration of 90 days after the first consent is given by any Owner;
- (b) The total number of votes required for the applicable authorization or approval shall be determined as of the date on which the last consent is signed;

(c) Any change in ownership of a Lot which occurs after a consent has been obtained from the Owner thereof shall not be considered or taken into account for any purpose; and

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

14.04 **Declarant's Rights Assignable.** All or any portion of the rights of Declarant under this Declaration or in any way relating to the Property may be assigned.

14.05 **Interpretation.** The captions pertaining to the ARTICLE and Section numbers of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, and any gender shall include both other genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof, which shall remain in full force and effect. The laws of the State of Utah shall govern the validity, construction and enforcement of this Declaration.

14.06 **Condemnation.** If at any time or times an insubstantial or minor part of the Common Areas or any part thereof shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages shall be payable to the Association and shall be used by the Association to the extent necessary for restoring or replacing any improvements on the remainder of the Common Areas. In the event of any other taking or condemnation, the interests of the Association, the Owners and Mortgagees shall be as they may appear.

14.07 **Covenants to Run with Land.** This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of Declarant, all parties who heretofore acquired or hereafter acquire any interest in a Lot, their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Lot or Unit shall comply with, and all interests in all Lots or in the Common Areas shall be subject to, the terms of this Declaration and the provisions of any Rules and Regulations, agreements, instruments, and determinations contemplated by this Declaration. By acquiring any interest in a Lot or Unit, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

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

14.09 **Duration/Termination:** This Declaration shall remain in effect until such time as there is recorded in the Public Records, following the approval of the applicable municipality authorizing such termination, an instrument of termination which is executed by seventy-five percent (75%) of the total outstanding votes of the Association, plus the Mortgagee of each and every Lot.

14.10 **Effective Date.** This Declaration and any amendment hereto, shall take effect upon its being filed for record in the Public Records.

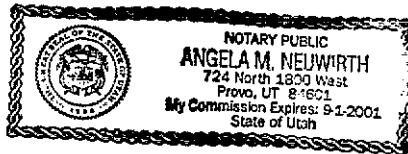
EXECUTED by Declarant on the day and year first above written.

Gateway-Art City Residential, L.C.

By: L. Wayne Ross
L. Wayne Ross, Managing Member

STATE OF UTAH)
 : ss.
COUNTY OF UTAH)

The within instrument was acknowledged before me this 15th day of September, 2000, by L. Wayne Ross in the capacity indicated.



Angela M. Neuwirth
NOTARY PUBLIC

EXHIBIT A

ENT 71112:2000 PG 26 of 28

to

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

of

**TOWNHOMES at CAMELOT VILLAGES
A Planned Residential Development (Expandable)**

City of Springville, Utah County, Utah

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

Located in Springville City, Utah County, Utah:

Parcel 1:

A tract of land located in the Northeast quarter of section 6, Township 8 South, Range 3 East, Salt Lake Base & Meridian. Commencing at a point which is N 00°35'25" W 561.40 feet and WEST 1856.08 feet from the east 1/4 corner of section 6, township 8 south, range 3 east, Salt Lake base and meridian, said point being the point of beginning; thence N 88°47'34" W 130.23 feet, thence N 00°41'19" E 107.81 feet, thence S 89°18'07" E 107.69 feet, thence S 38°19'43" E 32.83 feet, thence S 00°35'42" E 83.49 feet, to the point of beginning. Containing 0.32 acres, more or less.

Parcel 2:

A tract of land located in the Northeast quarter of section 6, Township 8 South, Range 3 East, Salt Lake Base & Meridian. Commencing at a point which is N 00°35'25" W 564.14 feet and WEST 1986.25 feet from the East 1/4 corner of section 6, township 8 south, range 3 east, Salt Lake base and meridian, said point being the point of beginning; thence N 88°47'34" W 77.03 feet, thence N 00°41'17" E 107.13 feet, thence S 89°18'07" E 77.03 feet, thence S 00°41'19" W 107.81 feet to the point of beginning. Containing 0.19 acres, more or less.

Parcel 3:

A tract of land located in the northeast quarter of section 6, Township 8 South, Range 3 East, Salt Lake Base & Meridian. Commencing at a point which is N 00°35'24" W 565.77 feet and WEST 2063.25 feet from the east 1/4 corner of section 6, township 8 south, range 3 east, Salt

Lake base and meridian, said point being the point of beginning; thence N 88°47'34" W 80.25 feet, thence N 00°14'57" E 106.42 feet; thence S 89°18'07" E 81.07 feet, thence S 00°41'17" W 107.13 feet to the point of beginning. Containing 0.20 acres, more or less.

Parcel 4:

A tract of land located in the northeast quarter of section 6, Township 8 South, Range 3 East, Salt Lake Base & Meridian. Commencing at a point which is N 00°35'25" W 547.26 feet and WEST 2143.76 feet from the east 1/4 corner of section 6, township 8 south, range 3 east, Salt Lake base and meridian, said point being the point of beginning; thence N 89°45'03" W 146.51 feet, thence N 00°14'49" E 108.48 feet, thence S 89°45'03" E 146.50 feet, thence S 00°14'57" W 108.48 feet, to the point of beginning. Containing 0.40 acres, more or less.

Parcel 5:

A tract of land located in the northeast quarter of section 6, Township 8 South, Range 3 East, Salt Lake Base & Meridian. Commencing at a point which is N 00°35'25" W 407.03 feet and WEST 2145.81 feet from the East 1/4 corner of section 6, Township 8 South, Range 3 East, Salt Lake Base and Meridian, said point being the point of beginning; thence 24.21 feet along the arc of a 186.00 foot radius curve to the left, through a central angle of 07°27'28", the chord bears S 73°09'18" W 24.19 feet to a point of reverse curvature, thence 77.77 feet along the arc of a 214.00 foot radius curve to the right, through a central angle of 20°49'22", the chord bears S 79°50'16" W 77.35 feet, thence N 89°45'03" W 47.31 feet, thence N 00°14'52" E 161.31 feet, thence S 89°45'03" E 146.51 feet, thence S 00°14'57" W 140.22 feet, to the point of beginning. Containing 0.53 acres, more or less.

Parcel 6:

A tract of land located in the northeast quarter of section 6, Township 8 South, Range 3 East, Salt Lake Base & Meridian. Commencing at a point which is N00°35'25"W 420.70 feet and WEST 2011.86 feet from the east 1/4 corner of section 6, township 8 south, range 3 east, salt lake base and meridian, said point being the point of beginning; thence 3.33 feet along the arc of a 116.00 foot radius curve to the left, through a central angle of 01°38'36", the chord bears S85°44'54"W 3.33 feet, thence S84°55'35"W 105.15 feet, thence 26.11 feet along the arc of a 186.00 foot radius curve to the left, through a central angle of 08°02'33", the chord bears S80°54'19"W 26.09 feet, thence N00°14'57"E 160.42 feet, thence S88°55'36"E 97.00 feet, thence S03°38'49"E 144.43 feet, to the point of beginning. Containing 0.45 acres, more or less.

Parcel 7:

A tract of land located in section 6, Township 8 South, Range 3 East, Salt Lake Base & Meridian. Commencing at a point N 00°35'25" W 385.03 feet along the section line and WEST 1803.98 feet from the east 1/4 corner of section 6, Township 8 South, Range 3 East, Salt Lake Base & Meridian, thence S 00°35'42" E 768.16 feet, thence S89°24'18" W 54.99 feet, thence S 00°23'27" E 28.21 feet to a point of curvature, thence 37.61 feet along the arc of a 24.00 feet radius curve to the right, through a central angle of 89°47'45", the chord bearing S 44°30'26" W 33.88 feet, thence S 89°24'18" W 109.21 feet to a point of curvature,

thence 66.52 feet along the arc of a 114.00 feet radius curve to the left, through a central angle of $33^{\circ}25'59''$, the chord bearing $S 72^{\circ}41'19'' W 65.58$ feet, thence $S 55^{\circ}58'19'' W 26.18$ feet, thence $N 34^{\circ}01'41'' W 4.00$ feet, thence $S 55^{\circ}58'19'' W 179.58$ feet to a point of curvature, thence 39.68 feet along the arc of a 82.00 feet radius curve to the right, through a central angle of $27^{\circ}43'41''$, the chord bearing $S 69^{\circ}50'10'' W 39.30$ feet, thence $S 83^{\circ}42'00'' W 52.15$ feet, thence $N 06^{\circ}18'00'' W 130.27$ feet, thence $S 83^{\circ}42'00'' W 53.00$ feet, thence $N 06^{\circ}18'02'' W 440.90$ feet, thence EAST 128.88 feet, thence $N 00^{\circ}14'44'' E 412.45$ feet, thence $S 89^{\circ}45'03'' E 47.31$ feet to a point of reverse curvature, thence 77.77 feet along the arc of a 214.00 feet radius curve to the left, through a central angle of $20^{\circ}49'22''$, the chord bearing $N 79^{\circ}50'16'' E 77.35$ feet to a point of curvature, thence 50.32 feet along the arc of a 186.00 feet radius curve to the right, through a central angle of $15^{\circ}30'01''$, the chord bearing $N 77^{\circ}10'35'' E 50.17$ feet, thence $N 84^{\circ}55'35'' E 105.14$ feet to a point of curvature, thence 36.08 feet along the arc of a 116.00 feet radius curve to the right, through a central angle of $17^{\circ}49'23''$, the chord bearing $S 86^{\circ}09'43'' E 35.94$ feet, thence $S 77^{\circ}15'02'' E 125.89$ feet to a point of curvature, thence 49.84 feet along the arc of a 214.00 feet radius curve to the left, through a central angle of $13^{\circ}20'40''$, the chord bearing $S 83^{\circ}55'22'' E 49.73$ feet, thence $N 89^{\circ}24'18'' E 3.42$ feet to the point of beginning. Containing 11.11 acres, more or less.