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UNION WOODS PARK P.U.D.

A Planned Residential Development

DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS

AND BY LAWS

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IVORY HOMES,  
a Utah limited partnership

DEVELOPER

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
UNION WOODS PARK P.U.D.

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DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS

FOR UNION WOODS PARK P.U.D.,

a Planned Residential Development

THIS Declaration of Covenants, Conditions and Restrictions (the "Declaration") is made and executed this 5th day of November, 1998, by IVORY HOMES, a Utah limited partnership, of 970 Woodoak Lane, Salt Lake City, Utah 84117 (hereinafter referred to as the "Declarant").

RECITALS:

A. This Declaration of Covenants, Conditions and Restrictions affects that certain real property located in Salt Lake County, Utah described with particularity in Article II below (hereinafter referred to as the "Tract").

B. Declarant is the owner of the Tract.

C. Declarant has constructed, is in the process of constructing or will construct upon the Tract a residential planned unit development which shall include certain Lots, Common Area and other improvements. All of such construction has been, or is to be, performed in accordance with the plans contained in the Plat Map to be recorded concurrently herewith.

D. Declarant intends to sell to various purchasers the fee title to the individual Lots contained in the Tract, and a corresponding membership interest in the Association of Lot Owners, subject to the Plat Map, and the covenants, conditions and restrictions set forth herein.

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

F. The Project is to be known as "UNION WOODS PARK P.U.D."

G. Since the completion of the Project may be in phases, the completed Project will consist of the original Phase and all subsequent Phases.

NOW, THEREFORE, for the reasons recited above and subject to the covenants, conditions and restrictions set forth below, Declarant hereby makes the following Declaration:

I. DEFINITIONS

When used in this Declaration (including in that portion hereof entitled "Recitals"), each of the following terms shall have the meaning indicated.

1. Additional Land shall mean and refer to the additional real property subject to Declarant's unilateral right of annexation as provided in this Declaration, which property is described in Exhibit "E" attached hereto and incorporated herein by this reference.

2. Assessments shall mean and refer to the amounts levied against a Lot or Lot Owner.
3. Association shall mean and refer to association of Lot Owners at UNION WOODS PARK P.U.D.
4. Building shall mean and refer to any of the structures constructed upon the Tract.
5. Class B Control Period shall mean and refer to the period of time during which the Class B Member is entitled to appoint all or a Majority of the Members of the Management Committee.
6. Common Areas shall mean and refer to all real property in the Project in which the Association owns an interest for the common use and benefit of its Members, their successors, assigns, tenants, families, guests and invitees, including but not limited to the following items: a) The real property and interests in real property submitted hereby, including the entirety of the Tract and all improvements constructed thereon, excluding the individual Lots; b) All Common Areas and Facilities designated as such in the Plat Map or Maps; c) All utility installations and all equipment connected with or in any way related to the furnishing of utilities to the Project and intended for the common use of all Lot Owners, such as telephone, electricity, gas, water, and sewer; d) the Project's outdoor grounds, landscaping, street lighting, perimeter and Preservation Area fences, sidewalks, parking spaces and roads; e) All portions of the Project not specifically included within the individual Lots; and f) All other parts of the Project normally in common use or necessary or convenient to the use, existence, maintenance, safety, operation or management of the Project.
7. Common Expenses shall mean and refer to a) All sums lawfully assessed against the Owners; b) Expenses of administration, maintenance, repair or replacement of the Project; c) Expenses allocated by the Association among the Owners; d) Expenses agreed upon as common expenses by the Management Committee; and e) Expenses declared common expenses by the Declaration.
8. Dwelling Unit or Unit shall mean and refer to the single family residence constructed upon a Lot.
9. Family shall mean and refer to a group of natural persons residing in the same Dwelling Unit and maintaining a common household.
10. Lot shall mean and refer to a portion of the Property, other than the Common Area, intended for any type of independent ownership and use as may be set out in this Declaration and as shall be shown on the Plat Map filed with this Declaration or amendments thereto. Where the context indicates or requires, the term Lot includes any Dwelling Unit, physical structure or improvement constructed on the Lot.
11. Management Committee shall mean and refer to that committee of Members of the Association appointed or elected and qualified to manage, operate and regulate the affairs of the Association.
12. Owner shall mean and refer to the Person who is the owner of record in the office of the County Recorder of Salt Lake County, Utah of a fee or an undivided fee interest in a Lot. The term Lot Owner does not mean or include a mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.
13. Person shall mean and refer to a natural person, corporation, partnership, trust, limited liability company, or other legal entity.
14. Phase shall mean and refer to a stage of development of the Project.
15. Plat Map or Map shall mean and refer to the "Plat Map or Maps of UNION WOODS PARK P.U.D.," on file in the office of the County Recorder of Salt Lake County, as it may be amended from time to time. The Plat Map will show the location of the Lots, Common Area and Preservation Area.
16. Project shall mean and refer to the UNION WOODS PARK P.U.D.

16. Project Documents shall mean and refer to the Declaration, By Laws, and Rules and Regulations.

## II. SUBMISSION

The Land, described with particularity on Exhibit "A" attached hereto and incorporated herein by this reference, is located in Salt Lake County, Utah, is hereby submitted to the terms, covenants and conditions of this Declaration, and is hereby made subject to, and shall be governed and regulated by, this Declaration of restrictive covenants. In addition:

The Land is SUBJECT TO the described easements and rights of way, TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described parcel of real property, including but not limited to the right of Owners and residents, as well as their guests, visitors and invitees, to ingress and egress from the Project along the roadways and streets designated on the Map, and no Owner or resident shall in any way hinder or prevent, or attempt to hinder or prevent, the proper and reasonable use and enjoyment of said rights of way and easements.

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

## III. COVENANTS, CONDITIONS, AND RESTRICTIONS

The foregoing submission is made upon and under the following covenants, conditions, and restrictions:

1. Description of Improvements. The significant improvements in the Project include or shall include upon completion: eleven (11) Lots; one (1) Dwelling Unit will be constructed on each Lot, consisting of cement footings and foundations, wood frames, exteriors of wood, siding, stucco and brick, or combinations thereof, roof systems of wood, shake, tile or composite asphalt shingles; and certain Common Area and Facilities consisting of private roadways, parking areas, green space, landscaping, common utilities, tot lot, picnic tables, basketball standard, and entryway. The Project will also contain other improvements of a less significant nature.

2. Description and Legal Status of the Property. This is a planned residential development. The Lots shall be individually owned. The Common Areas shall be owned by the Association.

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

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

All of LOT NO. \_\_ contained within UNION WOODS PARK P.U.D., a planned residential development, as the same is identified in the Record of Plat Map recorded in Salt Lake County, Utah as Entry No. \_\_, in Book \_\_, at Page \_\_ (as said Record of Plat Map may have heretofore been amended or supplemented) and in the Declaration of

Covenants, Conditions and Restrictions of UNION WOODS PARK P.U.D., a planned residential development, recorded in Salt Lake County, Utah as Entry No. \_\_\_\_\_, in Book \_\_\_\_\_, at Page \_\_\_\_\_ (as said Declaration may have heretofore been amended or supplemented), together with an undivided percentage of ownership interest in the Association.

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

5. Use Restrictions. The use of the Lots and Common Areas in the Tract are subject to the following use restriction:

a. Nuisance. No Owner or resident, or their family members, guests or invitees shall create or maintain a nuisance, or if a nuisance is created, it shall be promptly abated. A nuisance means any condition, activity or behavior which bothers, disturbs or annoys other residents, or interferes with their quiet and peaceful enjoyment of the premises, or the creation or maintenance of any noxious or offensive condition.

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

c. Subdivision of a Lot. No Lot shall be subdivided or partitioned.

d. Temporary Structures. No Owner or resident shall place upon any part of the Tract any temporary structures including but not limited to tents, trailers, or sheds, without the prior written consent of the Committee, although the Developer may install and use temporary structures in the development of the Project and marketing of the Lots or Units.

e. Energy Conservation Equipment. No solar energy collector panels, other energy conservation equipment or attendant hardware shall be constructed or installed on the Project without the prior written consent of the Committee.

f. Commercial or Business Use. No commercial trade or business may be conducted in or from any Lot unless: 1) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the residence; 2) the business activity conforms to all zoning requirements for the Project; 3) the business activity does not involve persons coming onto the Project who do not reside in the Project or door-to-door solicitation of residents of the Project; and 4) the business activity is consistent with the residential character of the Project and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Project, as may be determined in the sole discretion of the Committee. The terms "trade or business" shall have their ordinary and generally accepted meanings, which shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether such activity is engaged in full or part-time, such activity is intended to or does generate a profit, or a license is required therefor. The leasing of a Dwelling Unit shall not be considered a trade or business within the meaning of this subsection.

g. Storage and Parking of Vehicles. Motor Vehicles in the Project shall be subject to the parking rules and regulations adopted by the Management Committee from time to time. Except for purposes of loading or unloading passengers or supplies (for a period of time up to twenty-four (24) hours), no Recreational, Commercial or Oversized Vehicle may be parked in the Project. No motor vehicle or trailer, including but not limited to any car, automobile, truck, van, or any other transportation device of any kind may be parked or stationed in such a manner so as to block access to any Lot, Building or parking space, or to create an obstacle or potentially dangerous situation. No resident shall repair or restore any vehicle of any kind in, on or about any Lot or the Common Area, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility. No garage may be altered in



such a manner that the number of motor vehicles which may reasonably be parked therein after the alteration is less than the number of motor vehicles that could have been reasonably parked in the garage as originally designed and constructed.

h. Aerials, Antennas, and Satellite Systems. No aerials, antennas or satellite dishes shall be installed within the Project, without the prior written consent of the Management Committee, which shall not be unreasonably withheld.

i. Pets. No more than two (2) domestic pets per Lot are allowed unless a variance is granted in writing by the Management Committee. No pets, animals, livestock or poultry of any kind shall be bred in, on or about the Project. Residents with pet(s) shall abide by the pet rules and regulations adopted by the Committee from time to time. No pet may be allowed to create a nuisance. The following activities are deemed to be a nuisance: (1) Pets outside a Dwelling Unit and not in a fenced yard or in a cage or on a leash and under the control of the pet owner or his designee at all times; and (2) Pets in violation of the rules and regulations. Pets which constitute a nuisance, in the sole opinion of the Management Committee, must be removed from the Project.

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

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

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

m. Structural Alterations. No structural alteration to the Common Area or Facilities is allowed without the prior written consent of the Management Committee.

n. Mail Boxes. The initial mail box must be the one approved and provided by the Declarant. All replacement mail boxes must be approved in writing by the Management Committee prior to installation.

6. Easement -- Support, Maintenance and Repair. There is hereby RESERVED and the Association is hereby GRANTED a non-exclusive easement over, across, through, above and under the Lots and the Common Area for the operation, maintenance and regulation of the Common Area and Facilities. There is hereby RESERVED and the Association and each Owner is hereby GRANTED a non-exclusive easement over, across, along and through the roadways and streets designated on the Map, and no Owner or resident shall in any way hinder or prevent, or attempt to hinder or prevent, the proper and reasonable use and enjoyment of said rights of way and easements.

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

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

9. Management of the Association. The Association shall be managed by a Management Committee which shall be comprised of three (3) Owners.

10. Status and General Authority of Committee. Any instrument executed by the Management Committee

that recites facts which, if true, would establish the Committee's power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument. The Association shall, in connection with its exercise of any of the powers delineated below, constitute a legal entity capable of dealing in its Committee name. The Management Committee shall have, and is hereby granted, the following authority and powers:

a) To Enter. The power and authority to enter into or upon any Lot in order to maintain, repair or replace the Common Area and Facilities.

b) Grant Easements. The power and authority to grant reasonable permits, licenses, and non-exclusive easements over, under, across, and through the Common Areas for utilities, roads, and other reasonable.

c) Execute Documents. The power and authority to execute and record, on behalf of all Owners, amendments to the Project Documents.

d) Standing. The power and authority to contract in its own name or in behalf of the Association, or to sue and be sued.

e) Promulgate Rules. The power and authority to adopt reasonable rules and regulations.

f) All other Acts. The power and authority to perform any and all other acts, and to enter into any other transactions which may be reasonably necessary for the Management Committee to perform its functions on behalf of the Owners.

11. Classes of Membership & Voting Allocations. The Association shall have two (2) classes of membership:

a) Class A. Class A Members shall be all Owners with the exception of the Declarant, who shall be a Class B Member. Each Class A member shall have one (1) vote.

b) Class B. Class B Member shall be the Declarant and any successor of Declarant who takes title for the purpose of development and sale of Lots, and who is designated as such in a recorded instrument executed by Declarant. Each Class B member shall have seven (7) votes per Lot owned. Class B membership shall terminate and convert to Class A membership upon the happening of the earlier of the following events: When all of the Lots and Dwelling Units have been sold, seven (7) years from the date this Declaration is recorded, or when, in its sole discretion, Declarant so determines (hereinafter referred to as the "Event" or "Events"). When the Event occurs, the Declarant shall call a meeting to effect transition of control and management of the Association.

12. Capital Improvements. Without the prior written consent of the majority of the Owners, the Management Committee may not spend more than \$1,000.00 on a capital improvement.

13. Operation, Maintenance and Alterations. The Project shall be maintained as follows:

a) Area of Common Responsibility. The Association shall maintain, repair and replace, as needed from time to time, the Common Area and Facilities and any improvements constructed or installed thereon. This duty includes but is not limited to all entrances to and exits from the Project, streets, roads, common parking areas, street lighting, common sidewalks, curbs and gutters, Common Area landscaping, green space and sprinkler systems, and central utility systems for power, light and water. The foregoing items are hereinafter referred to as the "Area of Common Responsibility."

b) Area of Personal Responsibility. Each Owner shall maintain, repair and replace his Dwelling Unit as needed from time to time. This duty includes but is not limited to all Lot landscaping, green space and sprinkler systems, which includes grass edging and mowing, planting, pruning and removing of trees, shrubs and bushes.

and the preparation, planting and maintenance of flower beds and vegetable gardens, the roof and roof system, foundation, footings, columns, girders, beams, supports, main walls and exterior surfaces of any Building, Dwelling Unit and garage, all individual utility services such as power, light, gas, hot and cold water, heating, refrigeration and air conditioning systems, fixtures, windows, doors, patios, balconies and decks, garage doors, garage door systems and the interior surfaces of the Unit and fences located on the Lot. Owner shall complete landscaping on Lot within twelve (12) months of closing. If an item is not included in the Area of Common Responsibility and it is located in, on, under or above a Lot, then it shall be the responsibility of the Lot Owner, unless otherwise expressly and specifically determined in writing by the Committee (hereinafter referred to as the "Area of Personal Responsibility").

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

d) Standard of Care for Landscaping. All landscaping in the Project shall be maintained and cared for in a manner consistent with the quality of design and construction originally established by Declarant, although Declarant has not adopted any written landscaping guidelines. Any weeds or diseased or dead lawn, trees, ground cover or shrubbery shall be removed and replaced. All lawn areas shall be neatly mowed and trees, shrubs and bushes shall be properly pruned and trimmed. All landscaping shall be tasteful, so as not to affect adversely the value or use of any other Lot, or to detract from the uniform design and appearance of the Project.

14. Common Expenses and Maintenance Assessments. Each Owner, upon receipt of a deed or other document or conveyance to a Lot, shall be deemed to have agreed to pay his portion of the Common Expenses and any other Assessments levied by the Management Committee; provided, however, the Declarant shall not be obligated to pay any Assessments until the following conditions occur: (a) a permanent certificate of occupancy has been issued on the Dwelling Unit AND (b) the sale on the Dwelling Unit has been closed or, in the alternative, (c) the Declarant elects in writing to commence payment, whichever first occurs.

a) Purpose of Common Area Expenses. The Common Expenses provided for herein shall be for the general purpose of operating the Project and promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners.

b) Budget. At least thirty (30) days prior to the Annual meeting of the Association, the Management Committee shall prepare and deliver to the Owners a copy of the proposed Budget which shall set forth an itemization of the anticipated Common Expenses for the next twelve (12) month calendar year, commencing with the following January 1. The Budget shall be based upon advance estimates of cash requirements by the Management Committee to pay the Common Expenses for the upcoming year and establish a reasonable reserve fund.

c) Apportionment. Common Expenses and profits shall be divided equally among all Owners.

d) Approval of Budget and Assessments. The proposed Budget shall become effective unless disapproved at the Annual meeting of the Association by the affirmative vote of at least a majority of all of the Owners. Notwithstanding the foregoing, however, if the membership disapproves the proposed budget and Assessments or the Management Committee fails for any reason establish the Budget and Assessments for the succeeding year, then and until such time as a new budget and new Assessment schedule shall have been established, the Budget and the Assessments in effect for the then current year shall continue for the succeeding year.

e) Equitable Changes. If the aggregate of all monthly payments on all of the Lots is too large or too small as a result of unanticipated income or expenses, the Committee may from time to time effect an equitable change in the amount of said payments. Owners shall be given at least thirty (30) days written notice of any changes.

f) Personal Obligation of Owner. Each Owner is personally liable to pay his share of the Common Expenses.

g) Superiority of Assessments. All Assessments and liens created to secure the obligation are superior to any homestead exemptions to which an Owner may be entitled, which each Owner, by virtue of accepting a deed or other document of conveyance to a Lot, is hereby deemed to have waived or subordinated.

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

15. Special Assessments. With the prior written consent of a majority of the Owners, the Management Committee may also levy a special assessment in any calendar year to pay for capital improvements or unexpected expenses.

16. Collection of Assessments. Assessments shall be paid on time. A late fee of \$25.00 or 5% of the payment, whichever is greater, shall be charged on payments not received within ten (10) days of their due date. Interest at the rate of 1.5% per month shall accrue on all delinquent accounts. The amount of Common Expenses assessed against each Lot or Owner and any other Assessment charged to an Owner or Lot is a debt of the Owner at the time the Assessment is made and is collectible as such. Suit to recover a money judgment for unpaid Common Expenses or Assessments is maintainable without foreclosing or waiving the lien securing it. If any Owner fails or refuses to make any payment of the Common Expenses or Assessment when due, that amount constitutes a lien on the interest of the Owner in the Property, and upon the recording of notice of lien, it is a lien upon the Owner's interest in the Property prior to all other liens and encumbrances, recorded or unrecorded, except:

1) tax and special assessment liens on the Lot in favor of any assessing unit or special improvement district; and

2) encumbrances on the interest of the Owner recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

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

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

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

The Association shall have all other remedies available at law or in equity, and the Association may elect either to obtain a personal money judgment against the Owner or foreclose the lien, or both. No Owner may waive or otherwise exempt himself from liability for the Assessments provided for herein, including but not limited to the non-

use of Common Areas or the abandonment of his Lot. The duty to maintain the Common Areas and Facilities and the duty to pay Assessments are independent.

17. Liability of Management Committee. The Association shall indemnify every officer of the Association and member of the Management Committee against any and all expenses, including but not limited to attorney's fees reasonably incurred by or imposed upon any such officer or member in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Committee) to which he may be a party by reason of being or having been an officer or member. Said officers and members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, gross misconduct or bad faith. Said officers and members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or members may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and member free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall be exclusive of any other rights to which any such officer or member, or former officer or member may be entitled.

18. Insurance. The Management Committee may purchase and maintain, if reasonably available, adequate liability and property insurance on the Common Area and Facilities. At its option, the Management Committee may also purchase directors and officers insurance and/or a fidelity bond. Owners shall purchase adequate liability and contents coverage on their Lots and Dwelling Units. In the event of duplicate coverage, the Owner's insurance shall be deemed to be primary. If there is a deductible, it shall be paid by the party making the claim. No Owner shall be allowed to maintain insurance coverage in such a way as to decrease the amount which the Association or any mortgagees may realize under any insurance policy.

19. Condemnation and Destruction. If the Project is to be condemned, in whole or in part, or if the Project is substantially destroyed, then the majority of the Owners shall decide how to proceed. Any condemnation or sale proceeds, restoration costs, profits or losses shall be divided among the Owners equally.

20. Consent in Lieu of Vote. If the Declaration requires the vote of an Owner or Owners for authorization or approval of an act or a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, the written consent to such act or transaction from the Owners who collectively hold the required percentages.

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

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

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

c) Right to Financial Statement. The holder, insurer or guarantor of any Mortgage shall be entitled, upon written request, to a financial statement for the immediately preceding fiscal year. Any financial statement

requested pursuant hereto shall be furnished to the requesting party within a reasonable time following such request.

d) Management Contracts. Any agreement for professional management of the Project, and any contract for goods or services, or any lease which is entered into by the Management Committee or the Association shall provide or be deemed to provide hereby that either party may terminate the contract with or without cause upon at least sixty (60) days prior written notice to the other party thereto.

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

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

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

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

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

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

22. Amendment. The Declaration and Plat Map may be amended as follows:

a) Consent of the Owners. By affirmative vote of at least sixty seven percent (67%) of the Owners. To be valid, the amendment must be recorded in the Office of the County Recorder of Salt Lake County, Utah. In such instrument the Secretary of the Association shall certify that the vote required by this subsection has been obtained and, if approval of a specified percentage of Eligible Mortgagees is required for such amendment, that such approval has also been obtained; and

b) Consent of Eligible Mortgagees. The consent of at least sixty seven percent (67%) of the Eligible Mortgagees shall be required to any amendment which would terminate the legal status of the Project; and the consent of Eligible Mortgagees holding at least fifty-one percent of the undivided Ownership interest in the Common Areas shall be required to add to or amend any material provision of this Declaration or the Plat Map which establishes, provides for, governs, or regulates any of the following: (1) voting; (2) assessments, assessment liens, or subordination of liens; (3) reserves for maintenance, repair, and replacement of the Common Areas; (4) insurance or fidelity bonds; (5) limitations and restrictions on the right to use of the Common Areas; (6) responsibility for maintenance and repair of the several portions of the Project; (7) expansion or contraction of the Project or the addition, annexation or withdrawal of property to or from the Project; (8) the boundaries of any Lot; (9) the percentages of Ownership interest in the Common Areas; (10) convertibility of a Lot into Common Areas or Common Area into a Lot; (11) the imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his Lot; (12) express benefits or rights of Mortgagees, Eligible Mortgagees, or Eligible Insurers or Guarantors; and (13) the requirement that the Project be professionally managed rather than self managed. Any addition or amendment shall not be considered material for purposes of this Paragraph b) if it is for the clarification only or to correct a clerical error. An "Eligible Mortgagee" is

deemed to be any lender or security interest holder who has requested notice from the Association in writing. Notice of any proposed amendment to any Eligible Mortgagee to whom a written request to approve an addition or amendment to this Declaration or the Plat Map is required shall be mailed postage prepaid to the address for such Mortgagee shown on the list maintained by the Association. Any Eligible Mortgagee who does not deliver to the Committee or the Association a negative response to the notice of the proposed amendment within thirty (30) days from the date of such mailing shall be deemed to have approved the proposal. The foregoing consent requirements shall not be applicable to amendments to this Declaration and the Plat Map or the termination of the legal status of the Project as a planned residential development if such amendments or such termination are made or accomplished in accordance with the provisions of this Declaration regarding Condemnation or Substantial Obsolescence.

23. Declarant's Sales Program. Notwithstanding anything to the contrary, until Declarant has sold all the Lots and Dwelling Units owned by it in the Project or the expiration of a reasonable sales period following seven (7) years after the date on which this Declaration is filed for record in the Office of the County Recorder of Salt Lake County, Utah, whichever first occurs, neither the Owners, the Association nor the Committee shall interfere with the completion of improvements and sale of all remaining Lots, and Declarant shall have the following rights in furtherance of any sales, promotions or other activities designed to accomplish or facilitate the sale of all Lots owned by Declarant:

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

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

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

d) Relocation and Removal. Declarant shall have the right from time to time to locate or relocate any of its sales offices, models, or signs, banners or similar devices, but in connection with each such location or relocation shall observe the limitations imposed by the preceding portion of this Section. Within a reasonable period of time after the happening of the occurrence, Declarant shall have the right to remove from the Project any signs, banners or similar devices and any separate structure or facility which was placed on the Property for the purpose of aiding Declarant's sales effort.

24. Limitation on Improvements by Association. Until the occurrence referred to in Section 24, neither the Association nor the Management Committee shall, without the written consent of Declarant, make any improvement to or alteration in any of the Common Areas and Facilities created or constructed by Declarant, other than such repairs, replacements, or similar matters as may be necessary to properly maintain the Common Areas as originally created or constructed by Declarant.

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

26. Transfer of Management. Anything to the contrary notwithstanding, Declarant may at any time relinquish its reserved right to select members of the Management Committee, and to transfer management of the Project to the Association. If and when Declarant elects to do so, Declarant shall send written notification to each Owner of the effective date of the transfer (the "Transfer or Transition Date") at least forty five (45) days prior thereto. Thereupon, the Owners shall call a meeting to elect the members of new Management Committee, who shall take office as of the Transfer

Date. Declarant covenants to cooperate with the Owners in effecting an orderly transition of management. Moreover, Declarant shall cause all Common Expenses incurred prior to the Transfer Date to be paid in full on or before such date.

27. Expansion of the Project.

(a) Reservation of Option to Expand. Declarant hereby reserves the option to expand the Project to include additional Lots in the Project. This option to expand may be exercised from time to time, at different times and in any order, without limitation, provided however, the option shall expire seven (7) years from the date following the first conveyance of a Dwelling Unit constructed upon a Lot in Phase I to a Lot purchaser after the effective date of this Declaration, unless sooner terminated by Declarant's recorded Waiver of such option, there being no other circumstances which will cause the option to expire prior to said seven (7) years. Such right may be exercised without first obtaining the consent or vote of Lot Owners and shall be limited only as herein specifically provided. Such Lots shall be located on any or all portions of the Additional Land.

(b) Supplemental Declarations and Supplemental Maps. Such expansion may be accomplished by the filing for record by Declarant in the office of the County Recorder of Salt Lake County, Utah, no later than seven (7) years from the date this Declaration is recorded, a Supplement or Supplements to this Declaration containing a legal description of the site or sites for new Lots, together with supplemental Map or Maps containing the same information with respect to the new Lots as was required on the Map with respect to the Phase I Lots. The expansion may be accomplished in Phases by successive supplements or in one supplemental expansion.

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

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

(e) Right of Declarant to Adjust Ownership Interest in Common Areas. Each deed of a Lot shall be deemed to irrevocably reserve to the Declarant the power to appoint to Lot Owners, from time to time, the percentages in the Common Areas set forth in Supplemental or Amended Declaration. The proportionate interest of each Lot Owner in the Common Areas after any expansion of the Project shall be an undivided interest of the Project as expanded. A power coupled with an interest is hereby granted to the Declarant, its successors and assigns, as attorney in fact to shift percentages of the Common Areas in accordance with Supplemental or Amended Declarations recorded pursuant hereto and each deed of a Lot in the Project shall be deemed a grant of such power to the Declarant. Various provisions of this Declaration and deeds and mortgages of the Lots may contain clauses designed to accomplish a shifting of the Common Areas. None of said provisions shall invalidate the other, but each shall be deemed supplementary to the other toward the end that a valid shifting of the Common Areas can be accomplished. Notwithstanding anything to the contrary herein, no change in the percentage of undivided interest in the Common Areas may be effected more than seven (7) years following the first conveyance of a Lot in Phase I after the effective date of the Declaration.

Accordingly, upon the recordation of a Supplemental Declaration and Supplemental Map incident to any expansion, the revised schedule of undivided interests in the Common Areas contained therein shall automatically



become effective for all purposes and shall fully supersede any similar schedule which was contained in any declaration associated with any prior phase. In the event the provisions of the separate instruments relating to the Project conflict irreconcilably, the terms of that instrument which was recorded most recently shall control.

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

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

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

(3) Declarant shall have the right without further conveyance or documentation to build roads and access ways to the Additional Land through the easement areas as shown on the Map. The Association of Lot Owners shall not allow anything to be built upon or interfere with said easement areas.

(4) No assurances are made concerning:

(a) The locations of any improvement that may be made on any portion of the Additional Land that may be added to the Project.

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

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

(d) Type, size, or maximum number of Limited Common Areas which may be created within any portion of the Additional Land added to the Project.

(5) Notwithstanding anything to the contrary which may be contained herein, the Declaration is not intended, and shall not be construed so as to impose upon Declarant any obligation respecting, or to restrict Declarant in any way with regard to:

(a) the submission of any portion of the Additional Land to the provisions of the Act as Land under this Declaration;

(b) the creation, construction, or addition to the Project of any Additional Land;

(c) the carrying out in any particular way or within any particular time of any development which may be undertaken except as herein mentioned; or

(d) the taking of any particular action with respect to the Additional Land, the Project, or any Land.

(6) Assuming that only Phase I of the original Declaration is completed, the minimum number of Lots would be ten (10) and the maximum percentage of ownership interest of each Lot would be 10.0%. Assuming all Phases are completed and all Additional Land is added to the Project, the maximum number of Lots shall be fourteen

(14), the maximum number of Lots per acre will be 4.76, and the minimum Percentage Interest of each Lot would be 7.14%. Provided, however, the number of Lots actually constructed and the actual undivided percentage of ownership interest of each Lot may actually be somewhere in between the numbers and percentages set forth above.

28. Completion Obligation. Declarant hereby covenants in favor of each Owner that within two (2) years from the date of any contract of sale:

a) Each Dwelling Unit purchased shall be substantially constructed, and ready for use or occupancy (as the case may be); and

b) On the land submitted to the Declaration hereby or by any Supplemental Declaration, all planned amenities, landscaping, green space, sidewalks, parking facilities, roads, streets, fences, outdoor lighting, and utility lines and conduits adjacent to the Dwelling Unit and necessary for its use shall be substantially completed.

29. Certain Provisions Applicable to Declarant. Notwithstanding any other provisions herein contained, for so long as Declarant continues to own any of the Lots, the following provisions shall be deemed to be in full force and effect, none of which shall be construed so as to relieve the Declarant from any obligations of an Owner to pay his share of the Common Expenses or Assessments, except as herein otherwise provided, as to each Lot owned by Declarant in accordance with the Declaration.

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

b) No amendment may be made to the Declaration without the written consent of Declarant so long as Declarant retains the Ownership of one (1) or more Lots; provided, however, that the obligation to acquire said written consent of Declarant shall cease on a date seven (7) years from the date of recording of the Declaration.

30. Interpretation. To the extent Utah law is consistent with this Declaration, such provisions shall supplement the terms hereof and are incorporated herein. The captions and headings which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the term "shall" is mandatory and the term "may" is permissive, the whole shall include any part thereof, and any gender shall include both other genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.

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

32. Enforcement and Right to Recover Attorney's Assessments. Should the Association or Management Committee be required to take action to enforce the Declaration, By-Laws or any administrative rules and regulations adopted from time to time, or to pursue any remedy provided hereunder or by applicable law, whether such remedy is pursued by filing suit or otherwise, they may recover all Additional Charges, including a reasonable attorney's fee, which may arise or accrue.

33. Agent for Service of Process. The initial Registered Agent shall be CHRISTOPHER P. GAMVROULAS and the initial office of the Registered Agent shall be 970 Woodoak Lane, Salt Lake City, Utah 84117.



EXHIBIT "A"  
LEGAL DESCRIPTION

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

A parcel of land lying within the East half of section 30, Township 2 South, range 1 East, Salt Lake Base and Meridian, Salt Lake County, Utah, more particularly described as follows:

Beginning at the Northeast corner of lot "A" Union Woods subdivision, as shown on the official Plat thereof\* thence North  $89^{\circ}46'25''$  East, a distance of 155.43 feet; thence South  $04^{\circ}48'17''$  West, a distance of 19.91 feet; thence South  $00^{\circ}00'23''$  West, a distance of 66.66 feet to the beginning of a tangent curve to the right having a radius of 15.00 feet and a central angle of  $89^{\circ}59'37''$ , thence along the arc of said curve a distance of 23.56 feet; thence East, a distance of 55.00 feet; thence South  $00^{\circ}00'23''$  West, a distance of 447.90 feet to a point on the centerline of Greenwood Avenue (7500 S.); thence westerly along the centerline of said Greenwood Avenue, North  $89^{\circ}00'50''$  West, a distance of 173.79 feet; thence leaving said centerline of Greenwood Avenue North  $00^{\circ}00'23''$  East, a distance of 455.38 feet along the Eastline of Union Woods subdivision, according to the official Plat thereof; thence North  $65^{\circ}03'06''$  West, a distance of 32.55 feet to the beginning of a tangent curve to the right having a radius of 15.00 feet and a central angle of  $90^{\circ}00'00''$ , thence along the arc of said curve a distance of 23.56 feet; thence North  $24^{\circ}56'54''$  East, a distance of 62.00 feet; thence North  $89^{\circ}46'25''$  East, a distance of 10.64 feet to the point of beginning.

Property contains 2.181 acres

\*Said P.O.B. also lying North  $89^{\circ}35'57''$  West, 2246.03 feet along the quarter section and South 137.15 feet from the East quarter corner of Section 30, T.2S., R.1E., S.L.B. & M.