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JEFFERY SMITH
UTAH COUNTY RECORDER
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RECORDED FOR COTTLE, ALAN

WHEN RECORDED, RETURN TO:
Montdella, LLC
801 North 500 West, Suite 103
Bountiful, UT 84010
(801) 617-2100

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
MONTDELLA SUBDIVISION**

This Declaration of Covenants, Conditions and Restrictions for Montdella Subdivision located in the City of Alpine, Utah County, Utah (the "Declaration") is executed by Montdella, LLC, a Utah limited liability company, of 801 North 500 West, Suite 103, Bountiful, Utah 84010 (the "Developer"), with reference to the following:

RECITALS

- A. Developer is the owner of certain real property located in the City of Alpine, County of Utah, State of Utah, described more particularly on Exhibit "A" attached hereto and incorporated herein by this reference (the "Tract").
- B. The Plat Map shows 25 Lots, numbered 1 through 25, located within the Tract.
- C. The Property is an area of unique natural beauty, featuring distinctive terrain.
- D. There are common areas in the Tract.
- E. There is a homeowners association, Montdella Homeowners Association (the "HOA.")
- F. The governing documents will be enforced by the Developer, during the Period of Developer Control, then by the HOA.
- G. By subjecting the Property to this Declaration, it is the desire, intent and purpose of Developer to provide a general plan for development of the land, create a community in which beauty shall be substantially preserved, which will enhance the desirability of living on that real estate subject to this Declaration, and which will increase and preserve the attractiveness, quality and value of the lands and improvements therein.

COVENANTS, CONDITIONS AND RESTRICTIONS

Now, therefore, for the reasons cited above, the Developer hereby covenants, agrees, and declares that the Property shall be subject to the following covenants, conditions and restrictions:

1. **Definitions.** The following definitions shall apply to this Declaration:
 - a. **“Additional Charges”** shall mean and refer to late fees, interest, attorneys’ fees, costs and expense.
 - b. **“Builder”** shall mean an owner, developer or contractor who obtains a construction or occupancy permit or one or more Lots.
 - c. **“Capital Improvement”** shall mean and refer to all new improvements intended to add to, enhance or upgrade the nature, scope, utility, value, or beauty of the Project, as opposed to ordinary repair and maintenance.
 - d. **“City”** shall mean and refer to the City of Alpine, Utah.
 - e. **“Common Expense”** shall mean and refer to all expenses incurred by the HOA in administering and enforcing the Declaration.
 - f. **“Dwelling Unit”** shall mean and refer to both the use and architectural style of a home, residence, dwelling or living unit constructed upon a Lot. Mechanical equipment and appurtenances located within any one Dwelling Unit, or located without said Dwelling Unit but designated and designed to serve only that Dwelling Unit, such as appliances, electrical receptacles and outlets, air conditioning compressors, furnaces, water heaters, apparatus, systems or equipment, fixtures and the like, shall be considered part of the Dwelling Unit, so shall all decorated surfaces of interior walls, floors and ceilings, including but not limited to all paint, wallpaper, wall coverings, windows and window frames, doors and door frames, trim, carpeting, tile and linoleum. All pipes, wires, conduits, or other utility lines or installations constituting a part of the Dwelling Unit or serving only the Dwelling Unit, and any structural members, parts, components or any other property of any kind, including fixtures or appliances within any Dwelling Unit, which are removable without jeopardizing the integrity, soundness, safety or usefulness of the remainder of the Building within which the Dwelling Unit is located shall be deemed to be part of the Dwelling Unit. Where the context clearly requires, the term “Dwelling Unit” may refer to a Lot.
 - g. **“Entry”** shall mean the entryway into the Project.
 - h. **“Entry Monument”** shall mean the monument, planter boxes, landscaping features and other physical improvements, if any, identifying the Project located at or near the Entry or entrance to the Project.
 - i. **“Guest”** shall mean and refer to a guest, visitor or invitee to a Lot.

j. **“Individual Charge”** shall mean and refer to a charge levied against an Owner or Permittee for all expenses resulting from the act or omission of such Person, excepting the Owner’s failure to pay any Assessment.

1) The act or negligence of any Owner or Permittee shall be deemed to be the act or negligence of the Owner responsible for such Person.

2) Individual Charges shall include, by way of illustration but not limitation, any expense resulting from the act or omission of any Owner or Permittee including:

a) The cost to repair any damage to any portion of the Tract on account of loss or damage caused by such Person; or

b) The cost to satisfy any expense to any other Owner or Owners or to the ARC due to any intentional or negligent act or omission of such Person, or resulting from the breach by such Person of any provisions of the Project Documents.

While Individual Charges are not Assessments, they are secured by a lien in the same manner as Assessments, as set forth below. The HOA also shall have all other remedies, both legal and equitable, described in the HOA Bylaws available against any Owner for nonpayment.

k. **“Managing Member”** shall mean and refer to the person appointed by the Developer to unilaterally make all day-to-day business decisions for the Project.

l. **“Owner”** or **“Owners”** shall mean and refer to the record owner or owners of a fee simple title to any Lot, whether one or more natural persons or legal entities, and excluding those persons having such interest merely as security for the performance of an obligation.

m. **“Period of Developer Control”** shall mean and refer to a period of time commencing on the date this Declaration is recorded and terminating on the occurrence of the last of the following events: (1) four months after 100% of the Dwelling Units construction upon Lots owned by Developer in the Project have been sold; or (2) five years from the effective date of this Declaration; or (3) when in its sole discretion, the Developer so determines.

n. **“Permittee”** shall mean and refer to a guest, family member, renter, tenant, lessee, resident, occupant of or any Person permitted by Owner on a Lot.

o. **“Person”** shall, unless otherwise indicated, mean and refer to a natural person, corporation, partnership, trust, limited liability company, or other legal entity.

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

q. **“Plat Map”** shall mean and refer to the Final Plat Map of the Montdella Subdivision as it may be amended from time to time. The Plat Map will show the location of the Lots.

r. **“Project”** shall mean the Montdella Subdivision.

s. **“Project Documents”** shall mean and refer to this Declaration, and the Association Bylaws of Montdella Homeowners Association (the “HOA Bylaws.”)

t. **“Property”** shall mean and refer to the Tract.

u. **“Recreational, Oversized, or Commercial Vehicle”** shall mean and refer to any recreational, commercial, or oversized vehicle, motor homes, commercial vehicle, tractor, bobcat, non-passenger vehicle, golf cart, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft, trailers, including but not limited to a camper trailer, boat trailer, horse trailer, or other utility trailer of any kind, or any other recreational, oversized, or commercial transportation device of any kind so defined by the ARC.

v. **“Repair”** shall mean and refer to merely correcting the damage done on an occasion of an accident or fire or other cause, but more often due to the ravages of time and the deterioration resulting from ordinary wear and tear, by substituting for the damage, decayed or worn-out parts, new material, usually similar to that replaced, and so restoring the structure to its original sound condition.

2. **Area of Application.** This Declaration shall apply to all of the Property.

3. **Right to Expand Application.** The Developer shall have the exclusive, unilateral, unconditional, and irrevocable right to expand the application of this Declaration to other real property by written amendment to this Declaration duly recorded.

4. **Description and Legal Status of the Property.** The Plat Map shows the type and location of each Lot and its Lot number. All Lots shall be capable of being independently owned, encumbered, and conveyed, and shall have separate property tax or parcel numbers.

5. **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 Montdella Subdivision, as the same is identified in the Plat Map recorded in Utah County, Utah, as Entry No. _____ in Book _____, at Page ___ of the official records of the County Recorder of Utah County, Utah (as said Plat Map may have heretofore been amended or supplemented) and in the Declaration of Covenants, Conditions and Restriction of Montdella Subdivision, recorded in Davis County, Utah as Entry No. _____ in Book _____,

at Page(s) _____ of the official records of the County Recorder of Utah County, Utah (as said Declaration may have heretofore been amended).

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 inure to the benefit of any party who acquires any interest in a Lot.

6. **Meetings.** The HOA shall meet as often as is necessary, but, at a minimum, at such intervals as provided in the HOA Bylaws, at a convenient time and place. A meeting of Owners may be called by the Manager or as set forth in the HOA Bylaws. All meetings of the Owners shall be called and conducted as provided in the HOA Bylaws.

7. **Maintenance Responsibility of the Owners; Area of Personal Responsibility.** Each Owner shall maintain and keep in good repair his Lot, Dwelling Unit and all improvements thereon or therein.

8. **Common Expenses and Voting Rights.** The common expenses of the Property, if any, shall be charged to, and the voting rights shall be available to, the Owners equally.

9. **Common Expenses.** Each Owner is responsible for and shall pay his share of the Common Assessment, if any, and any Assessments against him or his Lot, and:

a. **Developer.** Anything to the contrary notwithstanding, the Developer shall not be obligated to pay Assessments on any Lot owned by it until such time as: (1) the physical structures are substantially completed; (2) certificates of permanent occupancy are issued and the Dwelling Units are sold or rented; (3) Developer elects in writing to pay the Assessments, whichever first occurs.

b. **Purpose of Common Area Expenses.** The Assessments provided for herein, if any, shall be used for the general purpose of operating the HOA and administering and enforcing the HOA Bylaws.

c. **Creation of Assessments.** Each Owner, by acceptance of a deed or other document of conveyance to a Lot, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the HOA his share of the Common Expenses, if any, and all of his Assessments.

d. **Budget.** At least thirty (30) days prior to the beginning of a new fiscal year, the ARC shall prepare and deliver to the Owners a proposed Budget which:

1) **Itemization.** Shall set forth an itemization of the anticipated Common Expenses for the twelve (12) month calendar year, commencing the following January 1.

2) **Basis.** Shall be based upon advance estimates of cash requirements by the HOA to provide for the payment of all estimated expenses growing out of or connected with the administration and enforcement of the HOA Bylaws.

e. **Approval of Budget and Assessments.** The proposed Budget and the Assessments shall become effective unless disapproved by the affirmative written vote of at least a majority of the Owners at a meeting duly called for this purpose. Notwithstanding the foregoing, however, if the Owners disapprove of the proposed budget and Assessments or the ARC fails for any reason to 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 Assessments in affect for the then current year shall continue for the succeeding year.

f. **Personal Obligation of Owner.** Each Owner is liable to pay his share of the Common Expenses, all of his Assessments, and Additional Charges; provided, however, no first mortgagee or beneficiary under a first deed of trust (but not the Seller under a uniform real estate contract, land sales contract, or other similar instrument), who obtains title to a Lot pursuant to the remedies provided in the mortgage or trust deed shall be liable for unpaid Assessments which accrued prior to the acquisition of title.

g. **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 HOA may from time to time effect an equitable change in the amount of said payments.

h. **Reserve Account.** The HOA shall establish and maintain a reserve account or accounts to pay for unexpected operating expenses and capital improvements as set forth in the HOA Bylaws.

i. **Statement of Assessments Due.** Upon written request, the HOA shall furnish to any Owner a statement of Assessments due, if any, on his Lot. Such request shall be provided in accordance with the HOA Bylaws.

j. **Debt Collection.** An Assessment, Additional Charge or fine is a debt of the Owner at the time it is made and is collectible as such. Suit to recover a personal judgment for unpaid fines is maintainable by the HOA without foreclosing or waiving the lien security it holds. If any Owner fails or refuses to make any payment of an Assessment, Additional Charge or fine 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.

k. **Late Fees.** A late fee in a sum determined by the HOA may be charged on all payments received more than ten (10) days after they were due.

1. **Default Interest.** Default interest may be assessed on the outstanding balance of all delinquent accounts as set forth in the HOA Bylaws.

10. **General Status, Authority and Duties of Developer During Period of Developer's Control and HOA.**

a. The Developer, during the Period of Developer's Control, and the HOA shall adopt an annual budget, pay all Common Expenses, allocate the Common Expenses among the Owners, bill the Owners for their portion of the Common Expenses, collect the Assessments, and take all other actions necessary or incident thereto. Any instrument executed by the Developer or HOA, its legal representative or Managing Member which recites facts which, if true, would establish the power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish such power and authority in favor of any person who in good faith and for value relies upon said instrument. The Developer or HOA shall constitute a legal entity capable of dealing in its own name or in behalf of two or more Owners. The Developer or HOA and Managing Member shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Section and its decisions. Until the end of the Period of Developer's Control, the Developer shall have the exclusive, unilateral and irrevocable right to appoint the Managing Member. The Developer or HOA may adopt, repeal, modify and enforce reasonable rules and regulations.

b. **Delegation of Management Responsibilities.** The Developer or HOA may delegate some of its management responsibilities to either a professional management company or manager, or any combination thereof. The termination provision of any such contract must not require a termination penalty or any advance notice of any more than sixty (60) days, and no such contract or agreement shall be for a term greater than one (1) year. The Developer or HOA may also employ architects, engineers, landscape professionals, contractors, subcontractors, general laborers, grounds crew, maintenance personnel, bookkeepers, accountants, attorneys, administrative and clerical personnel as necessary to perform its management responsibilities.

c. **Duties, Powers and Standing.** Until the termination of the "Period of Developer Control," the Developer has the sole right and exclusive authority to resolve all architectural issues and may, in its sole discretion, designate one or more persons from time to time to act on its behalf. Powers may be delegated by the Developer, provided any such delegation shall specify the scope of responsibilities delegated, and, prior to the termination of the Period of Developer Control, shall be subject to the irrevocable right of Developer to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and/or to veto any decision which Developer determines, in its sole discretion, to be inappropriate or inadvisable. Any instrument executed by the Developer or its legal representative that recites facts which, if true, would establish the 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 Developer or HOA shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Section and its decisions, including without limitation:

(1) **Access.** The power and authority to enter into or upon any Lot to make inspections, evaluations or repairs and to do other work necessary for the proper maintenance and operation of the Project or to enforce the decisions of the Developer or HOA. Except in the case of an emergency, Owners shall be given at least twenty-four (24) hours prior notice before the HOA may exercise this power.

(2) **Respond to Complaints.** While the HOA will not police the development, relative to any of these covenants, it shall have the power and authority, but not the obligation, to respond to written concerns of Owners about any issue.

(3) **Execute Documents.** The authority to execute and record, on behalf of the HOA any amendment to the Declaration which has been approved by the vote or consent necessary to authorize such amendment.

(4) **Standing.** The power to sue and be sued.

(5) **Contractual Authority.** The authority to enter into contracts which in any way concern the Project.

(6) **Promulgate Rules.** The authority to promulgate such reasonable rules and regulations as may be necessary or desirable to aid the HOA in carrying out any of its functions, including by way of illustration but not limitation: parking rules or landscaping rules.

(7) **Determine Common Expenses.** The authority to determine the Common Expenses, if any, of operating the HOA and administering the homeowners guidelines in the HOA Bylaws.

(8) **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 HOA to perform its functions for and in behalf of the Owners.

d. **Managing Member.** Anything the contrary notwithstanding, during the Period of Developer's Control, the Developer hereby assigns and delegates all of its rights, power and authority, as set forth in the Project Documents, to a Managing Member selected or to be selected by the Developer, who shall manage the ARC and administer the Project Documents. The Developer hereby designates Alan Cottle as the initial Managing Member.

e. **Limitation of Liability.** Neither the Developer nor the HOA, or any of their employees, agents, representatives or consultants shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of this Declaration, nor for any structural or other defects in any work done according to such plans and specifications. By accepting a deed or other document of conveyance to a Lot, each Owner agrees to and shall defend, indemnify, save and hold the Developer and the HOA, and their employees, agents, representatives or consultants, harmless from any and all loss, damage or liability they may suffer, including defense costs and attorney fees, as a result of any claims,

demands, actions, costs, expenses, awards or judgments arising out of their review or approval of Architectural designs, plans and specifications.

11. **Enforcement of Plans, Specifications, Architectural Guidelines.** Any construction, installation, alteration, or other work done in violation of the final plans, specifications and architectural guidelines established by Developer for the Project, or this Declaration, shall be considered to be non-conforming.

a. **Removal of Non-Conforming Improvements.** Upon written request from the HOA an Owner shall, at his own cost and expense, remove such non-conforming construction, alteration, or other work and shall restore the land to substantially the same condition as existed prior to the non-conforming construction, alteration, or other work.

b. **Default.** Should an Owner fail to remove and restore as required hereunder, the HOA shall have the right to enter property, remove the violation, and restore the property to substantially the same condition as existed prior to the construction, alteration or other work, without being deemed to be a trespasser.

c. **Enforcement Rights.** Developer hereby reserves and the HOA is hereby granted a non-exclusive easement over, across, through, above and under the Lots for the purposes of enforcing the Project Documents.

12. **Landscaping.** All Project landscaping, grading, and drainage shall be completed strictly in accordance with the landscaping guidelines required by the City and/or the Developer or, upon the termination of the Period of Developer's Control, the HOA and so as to comply with and not impair all applicable ordinances and flood control requirements. The foregoing notwithstanding, all landscaping shall comply with the Farmington City Zoning Ordinance Regulations. In the event of a conflict between this document and the Farmington City Ordinances, such Ordinances shall control for all purposes.

a. **Maintenance.** Trees, lawns, shrubs, or other plantings placed on a Lot shall be properly nurtured, maintained and replaced, as necessary, by the HOA.

b. **Weed and Disease Control.** Any weeds or diseased or dead lawn, trees, ground cover, bushes or shrubs shall be removed and replaced, as necessary, by the HOA.

c. **Pruning.** All trees, bushes and shrubs shall be pruned, trimmed and topped, as necessary, by the HOA.

d. **Minimum Standards.** All landscaping shall be maintained and cared for in a manner consistent with the quality of design and construction originally established by Developer.

13. **Accessory Buildings.** No accessory buildings will be permitted on the Lots. If there is a dispute of any kind whatsoever, such as whether a structure is an Accessory Building, the decision of the Developer or, upon the termination of the Period of Developer's Control, the

HAO shall be final, conclusive and binding, and decisions may be made for purely aesthetic reasons.

14. **Easements and Rights of Way.** Developer hereby reserves to itself and grants to the HOA a nonexclusive, perpetual right-of-way and easement over, across and through the Project, subject to all of the terms, covenants, conditions and restrictions set forth herein.

a. **Common Use of Easement.** Said easement is to be used in common by the Developer, HOA and Owners, subject to all of the terms, covenants, conditions and restrictions set forth herein.

b. **Private Easement.** The easement created is intended to be used as a private nonexclusive easement for the exclusive use and benefit of Developer, HOA, and Owners.

c. **Encroachments.** If any part of a Lot or Dwelling Unit encroaches or shall hereafter encroach upon the roads, or upon an adjoining Lot or Dwelling Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. Such easements shall extend for whatever period the encroachment exists. Such encroachments shall not be considered to be encumbrances either on the roads, Lots or Dwelling Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of any improvement constructed or to be constructed within the Project, by error in the Plat Map, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

d. **Construction Easements.** The Developer hereby reserves for itself and its affiliates and assignees a temporary construction easement over the roads and all common areas in the Project for the purpose of doing all things that are reasonably necessary as a part of constructing any new improvements for the Project including all physical improvements as well as all Lots and Dwelling Units. The Owners do hereby acknowledge and agree that there will be construction activities, traffic, noises, odors, and vibrations which may temporarily disrupt their quiet enjoyment of their Lots or Dwelling Unit until all improvements are complete, and such Owners do hereby waive any right to object to such construction activity; provided, however, Developer shall endeavor to use reasonable efforts to minimize the adverse impact of such construction activities on the Owners. Developer's construction activities pursuant to the easement granted hereunder shall not be deemed to be a violation of the Use Restrictions.

e. **Locations of Facilities Easements.** Developer reserves a nonexclusive easement for itself and its affiliates and assignees to construct, operate, maintain, repair and replace all types of telecommunication facilities within suitable locations for such facilities (the "Locations of Facilities") within the Project. Developer further reserves a right of access to the Locations of Facilities over, across and through roads, or other common elements of the Project in order to access the Locations of Facilities to exercise the rights established herein. Developer reserves the perpetual right to transfer by easement, license agreement or other conveyance the rights reserved hereunder to one or more telecommunication facilities providers. Developer may exercise all of such rights unilaterally and without the consent of any Owner, mortgagee or the HOA. The HOA, on behalf of all Owners, agrees to execute such further and additional instruments as may be

requested by Developer documenting the rights hereunder, in form satisfactory to the Developer, and any assignee of its rights hereunder.

f. **Entry Monument, Drainage, Utilities Easement.** Easements regarding the Entry Monument, if any, and corresponding utility and drainage systems and facilities, and irrigation are reserved hereby and on the recorded Plat. An Owner may not do any landscaping, grading or work, or install any structure, building, improvement, planting, or other object, natural or artificial, or materials which may damage or interfere with the installation and maintenance of utilities, Entry Monument, if any, or which may change the direction of flow of drainage channels in, on or about the easements and rights of way, or which may obstruct or retard the flow of water through the drainage channels in the easements and rights of way. If a drainage channel is altered by an Owner, the Developer and/or the HOA expressly reserve the right to enter onto the property to restore the area at the cost of the Owner, and without being guilty of a trespass. In addition, the easement and right of way area of or on each Lot, including by way of illustration but not limitation, the Entry Monument, if any, in whole or in part, utilities, drainage systems and facilities, and irrigation, and all improvements within said area shall be maintained continuously by the Owner of the property, at his sole expense, excepting those improvements for which a public authority or utility company is expressly responsible.

g. **Joint or Common Utility Easements with Neighboring Subdivisions or Developments.** The Developer for itself and/or its successors in interest (including but not limited to the HOA), hereby reserves the irrevocable and exclusive right, without any additional consent required, to enter into easement agreements with or to convey to owners or Developers of adjoining subdivisions, projects or developments any and all reasonable and necessary utility easements or rights of way for access, ingress, egress, transportation, cable, utilities, gas, water, power, sewer, storm drain systems, and so forth under, over, across or through the Project.

Easements and rights of way for the installation and maintenance of utilities, drainage systems and facilities, and irrigation are reserved, as set forth herein and in the legal descriptions of the Project.

h. **Maintenance Duty of Owner.** The easement and right of way area of each Lot and all improvements within said area shall be maintained continuously by their Owners, excepting those improvements for which a public authority or utility company is expressly responsible.

15. **Slope and Drainage Control.** No structure, plant, improvement or other material may be placed or permitted to remain, or other activities undertaken which may damage or interfere with established Lot ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels, or obstruct or retard the flow of water through the channels.

a. **Maintenance.** The slope control of each Lot and all improvements therein shall be maintained continuously by the Owner of the Lot, excepting those improvements for which a public authority or utility company is expressly responsible.

b. **Strict Compliance Required.** It shall be the responsibility of the Owner to see that his Lot strictly conforms to the grading and drainage plan established by the Developer, City and/or Davis County.

c. **No Obstructions.** Within these easements and rights of way, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in, on or about the easements and rights of way, or which may obstruct or retard the flow of water through the drainage channels in the easements and rights of way.

16. **Use Restrictions and Nature of the Project.** The Lots are subject to the following use restrictions which shall govern both the architecture and the activities within the Project:

a. **Private Residence.** No Lot shall be used except for residential purposes.

b. **Business Use.** No resident may operate a commercial trade or business in or from his Dwelling Unit with employees of any kind or with customers who are not residents of the Project, or which create or maintain a nuisance. No commercial trade or business may be conducted from a Dwelling Unit unless (1) the business activity conforms to all home occupation and zoning requirements governing the Project; and (2) the operator has a city issued business license. Notwithstanding the foregoing, the leasing of a Lot shall not be considered a trade or business within the meaning of this subsection.

c. **Storage and Parking of Vehicles.** The driving, parking, standing, and storing of motor vehicles in, on or about the Project is governed and regulated by the following, which may be amended from time to time by the HOA:

1. 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 driveway or Dwelling Unit or to create an obstacle or potentially dangerous condition.

2. No Resident shall repair or restore any vehicle of any kind in, on or about any Lot, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.

3. 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.

4. All garages shall be used primarily for the parking and storage of vehicles.

5. Parking on the street is prohibited.

6. All motor vehicles parked so as to be visible from the street or another Lot must be undamaged (less than \$1,000 to repair), in good mechanical condition, registered and licensed.

7. Except as otherwise expressly permitted, motor vehicles may not be “stored” so as to be visible from the street or another Dwelling Unit. This includes, by way of illustration and not limitation, unregistered, unlicensed, abandoned, disabled, or damaged vehicles.

8. No Recreational, Commercial, or Oversized Vehicles may be stored on a Lot or elsewhere in the Project. Eighteen-wheel semi-trailers and similar oversized transportation devices are not allowed.

9. Vehicles parked in violation of this Declaration may be immobilized, impounded, or towed by the HOA or its designee without further notice and at the owner’s sole risk and expense.

d. **Garbage and Refuse Disposal.** No Lot shall be used as a dumping ground. All trash, garbage, debris, rubbish, or other waste shall be kept in a sealed, sanitary bag or container, and stored out of sight except for a twenty-four (24) hour period on pick-up days.

e. **Aerials, Antennas, and Satellite Systems.** All exterior aerials, antennas and satellite dishes (collectively “antenna”) must be positioned so that they are screened from view from the street. No antenna shall be erected, maintained, or used in, on or about any Dwelling Unit, outdoors and above ground, whether attached to or on top of any building, structure, Dwelling Unit, which is visible from the street without the prior written consent of the Developer or HOA. If there is a conflict between this subsection and the FCC guidelines, the latter shall in all respects govern and control. In making its decisions, the Developer and/or HOA shall abide by and be subject to all relevant local, state and federal laws, including but not limited to all FCC guidelines, rules and regulations as they may be amended or supplemented from time to time.

f. **Animals and Pets.** The City allows animals on Lots based upon the size of the Lot. Animals as that term is defined by City Ordinance are allowed. No pets, animals, livestock, or poultry of any kind may be commercially bred within the Project. Domestic pets permitted by City Ordinance are allowed; provided, however, pets must be properly licensed and registered. Pets may not create a nuisance. The following acts may constitute a nuisance: (1) causing damage to the property of anyone other than the pet owner; (2) causing unreasonable fouling of the air by odors; (3) causing unsanitary conditions; (4) running loose throughout the Project and not in a cage or on a leash and under the control of a responsible person; (5) barking, howling, whining, or making other disturbing noises in an excessive, continuous or untimely fashion; (6) molesting or harassing passersby by lunging at them or chasing passing vehicles; (7) attacking or threatening to attack people or other domestic animals; (8) otherwise acting so as to bother, annoy, or disturb the sensibilities of a reasonable person or interfering with the right of residents to the peaceful and quiet enjoyment of their property; or (9) the mere number of pets maintained creates an offensive or dangerous condition to the health, welfare or safety of other residents.

g. **Laws.** Nothing shall be done or kept in, on or about any Lot 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.

h. **Damage or Waste.** Each Owner shall repair any damage he or any other residents, guests, or invitees of his Lot may cause to another Owner, Lot, or Dwelling Unit, and promptly restore the property to its original condition.

i. **Signs.** No signs, billboards or advertising structures or devices of any kind may be built, installed or displayed on the Property or any Lot except for a single sign with a maximum size of 2' x 2' for the specific purpose of advertising the sale of the Dwelling Unit; provided, however, this restriction does not apply to and is not binding upon the Developer, who may use whatever signs it deems appropriate to market its Lots. "For Rent" or "For Lease" signs on a Lot, or showing from a Dwelling Unit are prohibited.

j. **Zoning.** All land use and buildings shall be in compliance with all zoning and land use ordinances as well as all regulations of the municipalities and agencies governing the Project land use and buildings.

k. **Nuisances.** No noxious or offensive activity shall be carried on, in or about the Property, nor shall anything be done or permitted thereon which may be or may become an annoyance, disturbance, bother or nuisance to the neighborhood, or which might interfere with the right of other residents to the quiet and peaceful enjoyment of their property.

l. **Temporary Structures.** No structure of a temporary nature or character, including but not limited to any trailer, shack, shed, tent, garage, barn or other out-building shall be used on any Lot at any time as a residence.

n. **Chimes and Musical Sound Makers.** Chimes, dream catchers, bells, tubes or other objects hung vertically outside the Dwelling Unit which ring, strike or otherwise produce musical sounds which can be heard by other residents are prohibited.

17. **Owner-Occupied.** In order to maintain the value of the purchased property and subdivision, a Dwelling Unit must be owner-occupied for a period of at least one (1) year after closing. The term "owner-occupied" shall mean a Dwelling Unit occupied by one of the following: (a) the vested owner (as shown on the records of the Davis County Recorder); (b) the vested owner and/or his spouse, children or siblings; or (c) the shareholder, partner, member, trustor, beneficiary or other legal representative of an institutional owner (provided such person holds a beneficial interest in such legal entity of at least 50.0%) and/or his spouse, children or parents. After such initial one-year period, rental or leasing of Dwelling Units shall comply with the provisions set forth in the HOA Bylaws, and subject to the exceptions noted therein.

Anything to the contrary notwithstanding, the Developer, or any entity or individual which owns at least 25% of Developer who purchases a Lot (jointly and severally hereinafter "the Developer Lot Purchaser,") shall not be obligated to abide by the provision of this Section 17, and

shall be permitted to enter into a lease agreement, for a minimum initial period of one (1) year upon the closing of the purchased property by Developer Lot Purchaser.

18. **Leases.** Each Owner agrees, by the acceptance of a deed or other document of conveyance to a Lot, that in order to maintain the value of the purchased property and the subdivision, the leasing and renting of Dwelling Units is subject to the conditions and restrictions set forth in the HOA Bylaws.

a. **Restrictions.** No Owner shall be permitted to lease his Dwelling Unit for short term, transient, hotel, vacation, seasonal or corporate use purposes. For purposes of this section, the term "short term" shall be considered to be any rental with an initial term of less than six (6) months. Daily or weekly rentals are expressly prohibited. No Owner may lease individual rooms to separate persons or less than his entire Dwelling Unit.

b. **Signage.** "For Rent" or "For Lease" signs are prohibited.

c. **Approval of Lease Forms.** The HOA shall have the right to approve in writing all lease and rental agreements as to form. Any lease or rental agreement not so approved shall be considered "non-conforming" and, as such, voidable by the HOA. The HOA may also require that Owners use lease forms or addenda pre-approved by the HOA, or include specific terms in their leases; and the HOA may impose a review or administration fee on the lease of any Lot.

Anything to the contrary notwithstanding, the Developer Lot Purchaser shall not be obligated to abide by the provisions of this Section 18, and shall be permitted to enter into a lease agreement, for a minimum initial period of one (1) year upon the closing of the purchased property by Developer Lot Purchaser.

19. **Delegation of Management Responsibilities.** The Property may be managed by a professional manager, selected by the Developer or, upon the termination of the Period of Developer's Control, the HOA. The agreement for professional management of the Project, and any contract for goods and services, or any lease which is entered into by the HOA shall provide, or be deemed to provide hereby, that either party may terminate the contract with cause upon at least thirty (30) days prior written notice to the other party; and no contract may be for an initial term greater than one (1) year.

20. **View Impairment.** Neither the Developer nor the HOA guarantees or represents that any view over and across any property, including any Lot or Building will be preserved without impairment. Neither the Developer nor the HOA shall have the obligation to prune or thin trees or other landscaping except as set forth herein. Any express or implied Developer representations for view purposes or for the passage of light and air are expressly disclaimed.

21. **Common Utilities.** The Developer may provide water and power utility services to the Entry, Entry Monument, if any, and any other common elements at its expense (the "Common Utility Service.") Such Common Utility Service shall be maintained and paid for by the HOA as a Common Expense.

22. **Insurance.** The Developer and/or HOA will obtain and maintain, until all Lots are sold by Developer and the Period of Developer's control is terminated, insurance against loss or damage for public liability and property.

23. **Destruction, Condemnation and Obsolescence.** Upon the occurrence of any damage or destruction to the Tract or any part thereof, or upon a complete or partial taking of the Tract under eminent domain or by grant or conveyance in lieu thereof, restoration shall be undertaken by the Developer promptly without a vote of the Owners in the event of minor destruction and in the event of substantial destruction upon the affirmative vote of a majority of the Owners. Developer, as attorney-in-fact for each Owner, shall represent the interest of all of the Owners in any condemnation proceeding or in negotiations, settlements, and agreements with the condemning authority for the acquisition of all or any part of the common elements. Any action to terminate the legal status of the Tract after substantial destruction or condemnation occurs shall be agreed to by Owners who represent at least fifty-one percent (51%) of the total votes in the Tract and by at least a majority of the eligible mortgage holders.

24. **Consent or Vote Without a Meeting.** In any case in which this Declaration requires the vote of an Owner for authorization or approval of an act or a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Owners who collectively hold the required percentages, subject to the following conditions: (a) a copy of the notice and ballot must be given to each Owner, (b) all necessary ballots and consents must be obtained prior to the expiration of thirty (30) days from the time the written notice and ballot are issued to Owners, (c) any change in ownership of a Lot which occurs after consent has been obtained from the Owner having an interest therein shall not be considered or taken into account for any purpose, and (3) if approved, written notice of the approval must be given to all Owners at least ten (10) days before any action is required by them.

25. **Developer's Sales Program.** Notwithstanding anything to the contrary, until the termination of the Period of Developer's Control neither the Owners nor the HOA shall interfere or attempt to interfere with Developer's completion of improvements and sale of all of its remaining Lots and Dwelling Units, and Developer shall have the following rights in furtherance of any sales, promotions or other activities designed to accomplish or facilitate the sale of all Lots and Dwelling Units owned by it:

a. **Sales Office and Models.** Developer shall have the right to maintain one (1) or more sales offices and one (1) or more model Lots or Dwelling Units at any one time. Such offices 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 Developer's sales effort, or any combination of the foregoing sales offices must comply with the City of Farmington ordinances and criteria.

b. **Promotional.** Developer 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. **Relocation and Removal.** Developer 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, Developer 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 Developer's sales effort.

d. **Limitation on Improvements by Owners and the HOA.** Until the termination of the Period of Developer's Control, neither the Owners nor the HOA shall, without the written consent of Developer, make any improvement to the Project or alteration to any improvement created or constructed by the Developer.

e. **Relocation Rights and Encroachments.** In the development of the Project, Developer shall have the right to make adjustments in the number of Lots or the location of Lots and the streets, with the approval of the City of Alpine. If any portion of a Lot encroaches or comes to encroach upon another Lot or Lots 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.

f. **Developer's Rights Assignable.** All of the rights of Developer under this Declaration may be assigned or transferred either by operation of law or through a voluntary conveyance, transfer or assignment.

26. **Fines.** The HOA may fine an Owner or Permittee for material violations of these covenants, conditions and restrictions. The Owner or Permittee may appeal a fine issued by requesting a hearing with the HOA within thirty (30) days of delivery of a written notice of the fine. A fine assessed which remains unpaid after the time for appeal has expired becomes a lien against the Owner's interest in the property in accordance with the same standards as a lien for the nonpayment of other Common Expenses or Individual Charges, if any.

27. **Assignment of Rents.**

a. **Generally.** If an Owner who is leasing his Dwelling Unit fails to pay any assessment for a period of more than sixty (60) days after it is due and payable, the HOA may demand that the renter pay to the HOA directly all future lease payments due the owner, commencing with the next monthly or other periodic payment, until the amount due to the HOA is paid in full; provided, however, the HOA must give the owner written notice of the assignment of rents and this notice shall: (1) provide notice to the renter that full payment of remaining lease payments will commence with the next monthly or other periodic payment unless the assessment is received within the time period provided in the notice; (2) state the amount of the assessment due, including any interest or late payment fee; (3) state that any costs of collection, not to exceed \$150, and other assessments that become due may be added to the total amount due; and (4) provide the requirements and rights described herein.

b. **Notice.** If the Owner fails to pay the amount of the assessment due by the date specified in the notice, the Manager or HOA may deliver written notice to the renter, in accordance with this Section 27, that demands future payments due to the owner be paid to the ARC pursuant hereto. A copy of the notice must be mailed to the Owner at his last known address as shown on the books and records of the HOA. The notice provided to the renter must state:

(1) that due to the Owner's failure to pay the assessments within the time period allowed, the owner has been notified of the HOA's intent to collect all lease payments due to the HOA pursuant hereto;

(2) that until notification by the HOA that the assessment due, including any interest or late payment fee, has been paid, all future lease payments due to the Owner are to be paid to the HOA; and

(3) payment by the renter to the HOA in compliance herewith will not constitute a default under the terms of the lease agreement. If payment is in compliance with this Subsection 27, suit or other may not be initiated by the Owner against the renter for failure to pay.

Within thirty (30) days of payment in full of the assessment, including any interest or late payment fee, the HOA must notify the renter in writing that future lease payments are no longer due to the HOA. A copy of this notification must also be mailed to the Owner.

28. **Interpretation.** To the extent Utah law is consistent with this Declaration, such provisions shall supplement the terms hereof and are incorporated herein. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the 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.

29. **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 the Developer and all parties who hereafter acquire any interest in a Lot, or the Property, and their respective grantees, transferees, heirs, devisees, personal representatives, 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, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

30. **Enforcement and Right to Recover Attorneys' Fees.** Should the HOA, Manager, or an aggrieved Owner be required to take action to enforce or construe the Declaration or any rules and regulations adopted from time to time, or to pursue any remedy provided hereunder or by applicable law, including a claim for injunctive relief or damages, whether such remedy is pursued by filing suit or otherwise, the prevailing party shall be entitled to recover reasonable

attorneys' fees, costs, and expenses which may arise or accrue. The City is granted the right but not the obligation to enforce the Declaration.

31. **Limitation of Liability.** The covenants, conditions and restrictions set forth in this Declaration, together with any rules and regulations adopted by the HOA are established for the benefit of the Property and the Owners. Any damage, loss, claim or liability which might arise due to any decision, act, or failure to act of Developer, HOA, or any of their members, shall be exempt from any civil claim or action, including negligence, brought by any person owning or having an interest in any Lot. The HOA (and its members) and Managing Member shall be indemnified, save and held harmless from any such action or failure to act, and exempt from any civil claim or action resulting from any act or failure to act (whether intended or implied) while functioning as a member of the HOA or as the Managing Member, or for decisions that they may render during the course of their service, unless said party is guilty of gross negligence.

32. **Mortgage Protection.** Nothing herein contained, and no violation of these covenants, conditions and restrictions, shall invalidate or impair the lien of any mortgage or deed of trust, given in good faith and for value. The lien or claim against a Dwelling Unit or Lot for unpaid Assessments shall be subordinate to any Mortgage recorded on or before the date such Assessments become due.

33. **Amendments.** Except as provided elsewhere in this Declaration, including by way of illustration but not limitation to sections pertaining to the annexation or withdrawal of land, any amendment to this Declaration shall require the affirmative written vote or consent of at least fifty-one percent (51%) of the Total Votes in the Project cast either in person or by proxy at a meeting duly called for such purpose or otherwise approved in writing by such Owners without a meeting. Any amendment authorized pursuant to this Section shall be accomplished through the recordation in the Office of the County Recorder of an instrument executed by the ARC. In such instrument an officer or delegate of the HOA shall certify that the vote required by this Section for amendment has occurred.

a. **Initial Developer Right to Amend.** The Developer alone may amend or terminate this Declaration prior to the closing of a sale of the first Lot.

b. **Unilateral Right to Amend Under Certain Conditions.** Notwithstanding anything contained in this Declaration to the contrary, this Declaration may be amended unilaterally at any time and from time to time by Developer if such amendment is (1) necessary to correct typographical errors or inadvertent omissions; (2) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; or (3) reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; provided, however, any such Amendment shall not materially adversely affect the title to any Lot unless any such Owner shall consent thereto in writing.

c. **Developer's Right to Amend Unilaterally Prior to Termination of Developer's Right to Control.** Prior to the expiration of the Period of Developer's Control, Developer may unilaterally amend this Declaration for any purpose; provided, however, any such

Amendment shall not materially adversely affect the substantive rights of any Owner, nor shall it adversely affect title to any property without prior consent of the affected Owner.

d. **To Satisfy Requirements of Lenders.** Anything to the contrary notwithstanding, Developer reserves the unilateral right to amend all or any part of this Declaration to such extent and with such language as may be requested by a State Department of Real Estate (or similar agency), FHA, VA, the FHLMC or FNMA and to further amend to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of this Declaration or approval of the sale of Lots, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Lot, or any portions thereof. Any such amendment shall be effected by the recordation by Developer of an Amendment duly signed by the Developer, specifying the federal, state or local governmental agency of the federally chartered lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. Recordation of such an Amendment shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such Amendment, when recorded, shall be binding upon all Lots and all persons having an interest therein. It is the desire of Developer to retain control of the HOA and its activities during the anticipated period of planning and development. If any amendment requested pursuant to the provisions hereof deletes, diminishes or alters such control in any manner whatsoever, in the opinion of Developer, Developer shall have the unilateral right to amend this Declaration to restore such control.

e. **Developer's Rights.** No provision of this Declaration reserving or granting to Developer the Developmental Rights shall be amended without the prior express written consent of Developer, which consent may be withheld, conditioned or delayed for any reason or for no reason at Developer's sole and exclusive discretion.

34. **Limitation on Improvements by Owners and/or HOA.** Until 120 days after the date of closing of the sale of Developer's last Lot in the Tract, neither the Owners nor the HOA shall, without the written consent of Developer, make any improvement to or alteration to the property, other than such repairs, replacements, or similar matters as may be necessary to property maintain the Lots as originally created or constructed by Developer.

35. **Expansion of Subdivision.**

a. **Reservation of Option to Expand.** Developer hereby reserves the option to expand the Tract to annex, add and/or include additional land, common elements and Lots (the "Additional Land"). This option to expand may be exercised from time to time, at different times and in any order, without limitation. Such right may be exercised by Developer unilaterally and without first obtaining the consent or vote of the HOA or Owners, and shall be limited only as herein specifically provided. Such Lots shall be created on any or all portions of the Additional Land.

b. **Supplemental Declarations and Supplemental Maps.** Such annexation or expansion may be accomplished by the filing for record by Developer in the Office of the

County Recorder, a Supplement, or Supplements, to this Declaration containing a legal description of the site or sites for new Lots, together with supplemental Plat Map or Maps containing the same information with respect to the new Lots as was required on the Plat 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 Tract as so expanded. The term "Property" shall mean the real property initially submitted under the Declaration, plus any Additional Land added to the Tract 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 Tract, with additional references to the Supplemental Declaration and the Supplemental Map. The recordation in the Office of the 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 Tract as it existed before such expansion the respective undivided interests in the new common elements, if any, added to the Tract as a result of such expansion. Such recordation shall also operate to vest in any then mortgagee of any Lot in the Tract as it existed, interest so acquired by the Owner of the Lot encumbering any new common elements added to the Tract 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 the incidents of common ownership with all the provisions and protective covenants pertaining to a planned residential development as specified herein, upon recording the Supplemental Map and Supplemental Declaration in the said Office of the County Recorder.

e. **Right of Developer to Adjust Ownership Interest.** Each deed of a Lot shall be deemed to irrevocably reserve to the Developer the power to appoint to Owners, from time to time, the percentages in the Project. The proportionate interest of each Owner in the Project after any expansion of the Tract shall be an undivided interest of the Tract as expanded. A power coupled with an interest is hereby granted to the Developer, its successors and assigns, as attorney in fact to shift percentages of ownership in accordance with Supplemental Declarations recorded pursuant hereto and each deed of a Lot in the Tract shall be deemed a grant of such power to the Developer. Various provisions of this Declaration and deeds and mortgages of the Lots may contain clauses designed to accomplish a shifting of the percentages of ownership. 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 percentages of ownership can be accomplished.

Accordingly, upon the recordation of a Supplemental Declaration and Supplemental Map incident to any expansion, the revised schedule of undivided interests in the common elements, if any, 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 Tract conflict irreconcilably, the terms of that instrument which was recorded most recently shall control.

f. **Other Provisions Concerning Expansion.** If the Tract is expanded as hereinbefore contemplated, then it is further provided that:

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

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

3. Developer shall have the right without further conveyance or documentation to build roads and access ways to the Additional Property through the Developer areas as shown on the Map, if any. The HOA shall not allow anything to be built upon or interfere with said Developer 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 Tract.

(b) Type, kind, or nature of improvements which may be created on any portion of the Additional Land, except that the common facilities, if any, Dwelling Units and Lots will be comparable to the initial facilities on a per Lot basis and will be of a similar quality of materials and construction 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 Tract except that Lots will be constructed of an equal or better quality of materials and construction as the initial Tract.

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 Developer any obligation respecting, or to restrict Developer in any way with regard to: (a) the submission of any portion of the Additional Land to the provisions of this Declaration; (b) the creation, construction, or addition to the Tract of any additional property; (c) the carrying out in any particular way or within any particular time of any development which may be undertaken except as herein mentioned; or (d) the taking of any particular action with respect to the Additional Land, the Tract, or any Land.

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39. **Duration.** The covenants, conditions and restrictions of this Declaration shall endure for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years.

DATED the 17th day of December, 2019.

DEVELOPER:
MONTDELLA, LLC
a Utah limited liability company
By its Manager
Cottle Capital Group, LLC

By: *Alan Cottle*
Alan Cottle, Manager

ACKNOWLEDGMENT

State of Utah)
 : ss.
County of Davis)

The foregoing instrument was acknowledged before me this 17th day of December, 2019, by Alan Cottle, the Manager of Cottle Capital Group, LLC, the Manager of MONTDELLA, LLC, a Utah limited liability company, and said Alan Cottle duly acknowledged to me that said MONTDELLA, LLC executed the same.

Sherry I Fenn
NOTARY PUBLIC
Residing at: Layton, UT
My Commission Expires: 7-27-2022

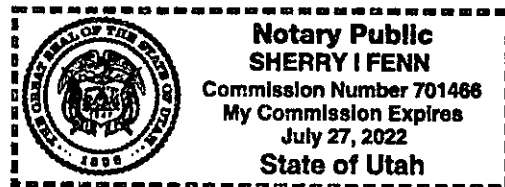


EXHIBIT "A"

PROPERTY DESCRIPTION

Beginning at a point North 122.76 feet and West 1253.38 feet from the Northeast Corner of Section 25, Township 4 South, Range 1 East, Salt Lake Base and Meridian; thence along the South boundary line of the L. Ross and Joanne C. Beck title line (Entry 89736:2015) the following 2 (two) courses: 1) North 88°14' West 74.96 feet; thence 2) South 76°32' West 70.38 feet; thence South 40°36'05" West 230.49 feet; thence South 63°26'06" West 111.80 feet; thence South 41°15'06" West 203.25 feet; thence to and along Alpine Main Street Village 4th Amended Plat "A" the following 2 (two) course: 1) South 70°27'24" East 272.51 feet; thence 2) North 82°56'04" East 298.91 feet to the Westerly right of way of Main Street as established by the Warranty Deed to the State Road Commission of Utah, (Entry 15764:1959); thence N00°21'39"E 445.40 feet along and beyond said Warranty Deed; thence N88°14'00"W 28.89 feet to the point of beginning.

171,558 square feet, or 3.94 acres+/- of which 4,142 square feet of 0.01 acres+/- lies inside the existing right of way of Main Street.