

**AMENDED AND RESTATED
DECLARATION
OF
PROTECTIVE COVENANTS, CONDITIONS AND
RESTRICTIONS
FOR
TIMPHAVEN HOMES
PLATS 1-A, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12**

TABLE OF CONTENTS

ARTICLE 1: DEFINITIONS..... 3

1.1. "ANNUAL ASSESSMENT"..... 3

1.2. "ARCHITECTURAL COMMITTEE" 3

1.3. "ARTICLES" 3

1.4. "ASSESSMENTS" 3

1.5. "ASSOCIATION" 3

1.6. "BOARD" 3

1.7. "BYLAWS" 3

1.8. "COMMON AREAS" 3

1.9. "COMMON EXPENSES" 3

1.10. "GOVERNING DOCUMENTS" 4

1.11. "LOT" 4

1.12. "MEMBER" 4

1.13. "OWNER" 4

1.14. "PERSON" 4

1.15. "PLAT" 4

1.16. "PROPERTY" 4

1.17. "SPECIAL ASSESSMENT" 4

ARTICLE 2: ASSOCIATION 4

2.1. FORMATION OF ASSOCIATION 4

2.2. RIGHTS OF ENFORCEMENT 4

2.3. FINES 5

ARTICLE 3: MEMBERSHIPS AND VOTING 5

3.1. MEMBERSHIP 5

3.2. VOTING RIGHTS 5

3.3. MULTIPLE OWNERSHIP INTERESTS 5

3.4. LISTS OF OWNERS 5

ARTICLE 4: THE BOARD 6

4.1. BOARD OF TRUSTEES AND OFFICERS..... 6

4.2. PERSONAL LIABILITY 6

ARTICLE 5: ASSESSMENTS 6

5.1. PURPOSE OF ASSESSMENTS; ASSESSMENT LIEN 6

5.2. ANNUAL ASSESSMENTS 7

5.3. SPECIAL ASSESSMENTS 7

5.4. INDIVIDUAL ASSESSMENTS 7

5.5. ESTABLISHMENT OF ANNUAL ASSESSMENT PERIOD..... 7

5.6. EFFECT OF NONPAYMENT..... 8

5.7. PRIORITY OF LIEN 8

5.8. EXEMPT PROPERTY 8

ARTICLE 6: MAINTENANCE; INSURANCE 8

6.1. MAINTENANCE OF COMMON AREAS 8

6.2. ASSESSMENT OF CERTAIN COSTS 8

6.3. IMPROPER MAINTENANCE 9

6.4. INSURANCE 9

ARTICLE 7: PROPERTY RIGHTS IN COMMON AREAS 9

7.1. EASEMENT OF ENJOYMENT 9

7.2. FORM FOR CONVEYANCING 9

ARTICLE 8: DESIGN REVIEW AND CONTROL 10

8.1. ARCHITECTURAL CONTROL COMMITTEE 10

8.2. COMPOSITION OF ARCHITECTURAL COMMITTEE 10

8.3. GENERAL 10

8.4. PLANS 10

8.5. FEES 11

8.6. PERMITS 11

8.7. PROCEDURE 11

8.8. CONSTRUCTION 11

8.9. LIABILITY 12

8.10. ENFORCEMENT 12

8.11. VARIANCES 12

ARTICLE 9: COVENANTS, CONDITIONS AND RESTRICTIONS 12

9.1. COMMON AREAS 12

9.2. LAND USE AND BUILDING TYPE 12

9.3. BUILDING LOCATION 13

9.4. BUILDING HEIGHT 13

9.5. LANDSCAPING 13

9.6. TEMPORARY OCCUPANCY AND TEMPORARY BUILDINGS 13

9.7. ACCESSORY STRUCTURES AND FACILITIES 13

9.8. EXTERIOR ANTENNAS, LIGHTS, AND POWER LINES 13

9.9. NUISANCES 14

9.10. SIGNS 15

9.11. ANIMALS 15

9.12. REPAIR OF BUILDING 15

9.13. RESTRICTION ON FURTHER SUBDIVISION, PROPERTY RESTRICTIONS, AND REZONING 16

9.14. NON-RESIDENTIAL USE 16

9.15. FUEL STORAGE 16

 (a) *Below-Ground* 16

 (b) *Above-Ground* 17

9.16. BUILDING MATERIAL STORAGE 17

9.17. EASEMENTS 17

9.18. DRAINAGE 17

9.19. FIRE PROTECTION 17

9.20. HAZARDOUS ACTIVITY 17

9.21. ROAD MAINTENANCE 18

9.22. SOLAR EQUIPMENT 18

9.23. POOLS, SPAS, FOUNTAINS, GAME COURTS..... 18

9.24. FENCES AND WALLS 18

9.25. PARKING AND STORAGE..... 18

ARTICLE 10: DISPUTE RESOLUTION..... 19

10.1. INTRODUCTION..... 19

10.2. EXCEPTIONS..... 19

10.3. PROCEDURE FOR DISPUTES BETWEEN MEMBERS 19

 (a) *Good-Faith Discussion* 19

 (b) *Submission of Complaint* 19

 (c) *Review by Board* 20

 (d) *Mediation* 20

 (e) *Arbitration* 20

 (f) *Procedure Subject to Change by Board*..... 21

10.4. PROCEDURE FOR DISPUTES BETWEEN THE ASSOCIATION AND MEMBERS 21

ARTICLE 11: TERM; TERMINATION; AMENDMENT..... 21

11.1. TERM 21

11.2. TERMINATION 21

11.3. AMENDMENT 22

ARTICLE 12: MISCELLANEOUS..... 22

12.1. INTERPRETATION..... 22

12.2. SEVERABILITY..... 22

12.3. RULE AGAINST PERPETUITIES 22

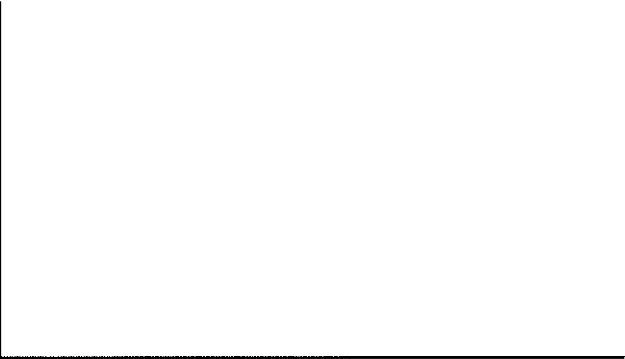
12.4. RULES AND REGULATIONS 22

12.5. RUN WITH THE LAND 22

EXHIBIT A: Legal Description of the Property 24

WHEN RECORDED, PLEASE MAIL TO:

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Space above for Recorder's use

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DECLARATION
OF
PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
TIMPHAVEN HOMES
PLATS 1-A, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12**

THIS AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR TIMPHAVEN HOMES PLATS 1-A, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 (this "Declaration") is entered into as of January 1, 2007, by TIMPHAVEN HOMES INC., a Utah nonprofit corporation (the "Association").

RECITALS

A. The Association is the homeowners association of the owners of the lots in Timphaven Homes 1-A, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 (the "Plats"), organized pursuant to the provisions of the Original Declarations (as defined in Paragraph B below) to exercise the rights, powers, and duties set forth in the Original Declarations and to administer and enforce the covenants and restrictions contained therein. The real property that is subject to this Declaration (the "Property") is located in Utah County, Utah, and is more particularly described on Exhibit A, attached hereto.

B. The Property was initially owned, developed and subdivided by Stewart Canyon Corporation ("Stewart Canyon"). By 1970, the Property consisted of (1) Timphaven Homes Plat 1-A, recorded as Entry Number 15666 and Map Filing Number 627 in the Utah County Recorder's Office on October 19, 1964; (2) Timphaven Homes Plat 2, recorded as Entry Number 6224 and Map Filing Number 754 in the Utah County Recorder's Office on June 24, 1968; and (3) Timphaven Homes Plat 3, recorded as Entry Number 4611 and Map Filing Number 847 in the Utah County Recorder's Office on May 12, 1970 (the "Original Plats"). Stewart Canyon subjected each of the Original Plats to declarations of protective covenants, easements, equitable servitudes and liens as follows: (1) that certain Declaration of Protective Covenants, Easements, Equitable Servitudes and

Liens Applying to Timphaven Homes Plat 1-A, recorded as Entry Number 12054 in Book 1018 at Page 373 in the Utah County Recorder's Office on August 9, 1965 (the "1965 Declaration"); (2) that certain Declaration of Protective Covenants, Easements, Equitable Servitudes and Liens Applying to Timphaven Homes Plat 2, recorded as Entry Number 7167 in Book 1116 at Page 55 in the Utah County Recorder's Office on July 23, 1968 (the "1968 Declaration"); and (3) that certain Declaration of Protective Covenants, Easements, Equitable Servitudes and Liens Applying to Timphaven Homes Plat 3, recorded as Entry Number 4612 in Book 1178 at Page 67 in the Utah County Recorder's Office on May 12, 1970 (the "1970 Declaration") (collectively, the "Original Declarations").

C. Since 1970, the Original Plats have been further subdivided, resulting in the creation of the current Plats, which collectively cover roughly¹ the same geographical territory as that previously covered by the Original Plats. Specifically, (1) all of the property covered by Original Plat 1-A is now covered collectively by current Plats 1-A, 5, 6, 8, 9 and 11; (2) all of the property covered by Original Plat 2 is now covered collectively by current Plats 2, 10 and 12; and (3) all² of the property covered by Original Plat 3 is now covered collectively by current Plats 3, 4 and 7.

D. Pursuant to the provisions of (1) the 1965 Declaration, a majority of the owners as of January 1, 2007, of the lots contained within Original Plat 1-A have voted to change the 1965 Declaration by adopting this Declaration as an amendment, restatement and replacement thereof; (2) the 1968 Declaration, a majority of the owners as of January 1, 2007, of the lots contained within Original Plat 2 have voted to change the 1968 Declaration by adopting this Declaration as an amendment, restatement and replacement thereof; (3) the 1970 Declaration, a majority of the owners as of January 1, 2007, of the lots contained within Original Plat 3 have voted to change the 1970 Declaration by adopting this Declaration as an amendment, restatement and replacement thereof.

E. In consideration of the foregoing, the Original Declarations are hereby amended, restated and replaced in their entirety by this single consolidated Declaration, which subjects the Property to a common scheme and plan for the possession, use, enjoyment, repair, maintenance, restoration, and improvement of the Property.

¹ The following lots contain additional property that has been annexed since the recording of the Original Plats and was not included in the Original Plats: Lot 1 in Plat 4 (Lot 3 in Original Plat 3); Lot 1 in Plat 5 (Lot 23 in Original Plat 1-A); and Lot 1 in Plat 6 (Lot 22 in Original Plat 1-A).

² Except for a sliver of property that was part of Lot 10 in Original Plat 3 and which is now part of Lot 5 in current Plat 1-A.

DECLARATION

NOW, THEREFORE, it is hereby declared that the Property shall be held, sold, conveyed, leased, rented, encumbered, and used subject to the following easements, rights, assessments, liens, charges, covenants, servitudes, restrictions, limitations, conditions, and uses, which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and be binding on all parties having or acquiring any right, title, or interest in the Property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof. This Declaration amends, restates, supersedes and replaces in their entirety all previous declarations of covenants, conditions and restrictions applying to the Property, whether or not recorded in the Utah County Recorder's Office, including, without limitation, the Original Declarations.

ARTICLE 1: DEFINITIONS

The following words, phrases, or terms used in this Declaration shall have the following meanings:

1.1. **"Annual Assessment"** shall mean the charge levied and assessed each year against each Lot pursuant to Section 5.2 hereof.

1.2. **"Architectural Committee"** shall mean and refer to the Architectural Control Committee established pursuant to Article 8 hereof.

1.3. **"Articles"** shall mean the articles of incorporation of the Association, as amended from time to time.

1.4. **"Assessments"** shall mean charges by the Association as more particularly described in Article 8 hereof.

1.5. **"Association"** shall mean Timphaven Homes Inc., a Utah nonprofit corporation, organized to administer and enforce the covenants and to exercise the rights, powers, and duties set forth in this Declaration.

1.6. **"Board"** shall mean the Board of Trustees of the Association.

1.7. **"Bylaws"** shall mean the bylaws of the Association, as amended from time to time.

1.8. **"Common Areas"** shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners, including, without limitation, the easements over the roads as shown on the Plats or as constructed and currently existing.

1.9. **"Common Expenses"** shall mean all expenses for maintenance, utilities, and taxes incurred on or in connection with the Property, all insurance premiums, all expenses incurred in

connection with enforcement of this Declaration, all expenses expressly declared to be Common Expenses by this Declaration or the Bylaws, and all other expenses which the Association is entitled to incur pursuant to the provisions of this Declaration or the Bylaws.

1.10. **“Governing Documents”** shall mean this Declaration, the Articles and the Bylaws.

1.11. **“Lot”** shall mean any separately numbered and individually described parcel of land shown as a Lot on the Plats and intended for private use and ownership.

1.12. **“Member”** shall mean any person holding a membership in the Association pursuant to the provisions of Section 2.1.

1.13. **“Owner”** shall mean (when so capitalized) the record holder of legal title to the fee simple interest in any Lot. If there is more than one record holder of legal title to a Lot, each record holder shall be an “Owner.”

1.14. **“Person”** shall mean and refer to any natural person, corporation, limited liability company, joint venture, partnership (general or limited), association, trust or other legal entity.

1.15. **“Plat”** shall mean and refer to any plat of the Property or any part of it which has been recorded in the Utah County Recorder’s Office.

1.16. **“Property”** shall mean and refer to that certain real property located in Utah County, State of Utah, and more particularly described on Exhibit A hereto.

1.17. **“Special Assessment”** shall mean any assessment levied and assessed pursuant to Section 5.3.

ARTICLE 2: ASSOCIATION

2.1. **Formation of Association.** Timphaven Homes Inc., a Utah nonprofit corporation (the “Association”), has been formed pursuant to the rules and requirements of the Utah Revised Nonprofit Corporation Act, Utah Code Annotated Section 16-6a-101, et seq., to serve as the homeowners association for the Owners of the Lots. The Association is charged with the duties and invested with the powers prescribed by law and set forth in the Governing Documents. The Articles and Bylaws shall not, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

2.2. **Rights of Enforcement.** The Association, as the agent and representative of the Owners, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. If the Association prevails in any procedure to enforce the provisions of this Declaration, the Association is entitled to an award of its costs and reasonable attorneys’ fees

associated with the action. Failure by the Association to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

2.3. **Fines.** The Association shall have the authority to levy reasonable fines against any Owner by reason of any violation of any term, covenant, condition or restriction set forth in this Declaration, by such Owner or such Owner agent, contractor, tenant, guest, invitee or family member. Fines may not be imposed by the Association unless and until a schedule of fines (the "Fine Schedule") has been adopted by the Board and distributed to the Owners. Fines may only be assessed for violations listed on Fine Schedule and only in the amounts listed on the Fine Schedule. Fines may not be imposed without notice of at least fourteen (14) days to the Owner who is the subject of the fine and an opportunity for a hearing before the Board. The requirements for a hearing do not apply to the imposition of fines upon any Owner because of the failure of the Owner to pay Assessments or other charges when due.

ARTICLE 3: MEMBERSHIPS AND VOTING

3.1. **Membership.** Every Owner shall be a Member of the Association. No evidence of membership in the Association shall be necessary other than evidence of ownership of a Lot. Membership in the Association shall be automatic and mandatory and shall be appurtenant to the Lot in which the Owner has the necessary interest. The rights and obligations of a Member shall not be assigned, transferred, pledged, conveyed, or alienated in any way except upon transfer of ownership of an Owner's Lot, and any such transfer shall automatically transfer the membership appurtenant to such Lot to the new Owner thereof.

3.2. **Voting Rights.** Members shall be entitled to one (1) vote for each Lot in which the interest required for membership in the Association is held. Although each of the multiple Owners of a single Lot shall be a Member, no more than one (1) vote shall exist or be cast on the basis of a single Lot, unless such Lot was created by combining two or more previous Lots, in which case the number of votes entitled to be cast in connection with such Lot shall be equal to the number of previous Lots that were combined to create such Lot. Which of the multiple Owners of a single Lot shall cast the vote on the basis of that Lot is determined under Section 3.3.

3.3. **Multiple Ownership Interests.** In the event there is more than one (1) Owner of a particular Lot, the vote relating to such Lot shall be exercised as such Owners may determine among themselves. A vote cast by any of such Owners participating in a meeting, whether in person, by proxy or by written ballot, shall be conclusively presumed to be the vote attributable to the Lot concerned unless an objection is immediately made by another Owner of the same Lot. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

3.4. **Lists of Owners.** The Association shall maintain up-to-date records showing the name of each person who is an Owner, the address of such person, and the Lot that is owned by such person. In the event of any transfer of a fee or undivided fee interest in a Lot, either the transferor or transferee shall furnish the Association with evidence establishing that the transfer has occurred and

that the deed or other instrument accomplishing the transfer is of record in the office of the County Recorder of Utah County, Utah. The Association may for all purposes act and rely on the information concerning Owners and Lot ownership which is thus acquired by it, or at its option, the Association may act and rely on current ownership information respecting any Lot or Lots which is obtained from the office of the County Recorder of Utah County, Utah. The address of an Owner shall be deemed to be the address of the Lot owned by such person unless the Association is otherwise advised.

ARTICLE 4: THE BOARD

4.1. **Board of Trustees and Officers.** The affairs of the Association shall be conducted by the Board and by such officers as the Board may elect or appoint in accordance with the Articles and Bylaws. The number, qualifications and terms of office of Trustees shall be determined in accordance with the Articles and Bylaws. The Board may appoint various committees and may appoint a manager (subject to approval of a majority of the Members) who shall, subject to the direction of the Board, be responsible for the day-to-day operation of the Association. The Board shall determine the compensation to be paid to the manager or any other employee of the Association.

4.2. **Personal Liability.** No Trustee, officer, manager, or other employee or committee member of the Association shall be personally liable to any Member, or to any other person, including the Association, for any damage, loss, claim, or prejudice suffered or claimed on account of any act, omission to act, negligence, or other matter, of any kind or nature except for acts performed intentionally and with malice.

ARTICLE 5: ASSESSMENTS

5.1. **Purpose of Assessments; Assessment Lien.** The Assessments levied by the Association shall be used exclusively to promote the health, safety, and welfare of the Owners and occupants of the Property and for the improvement, operation and maintenance of the Common Areas and the Lots. All Members of the Association hereby covenant and agree, and each Owner, by acceptance of a deed to a Lot, is deemed to covenant and agree, to pay to the Association the following assessments and charges: (a) Annual Assessments, (b) Special Assessments, and (c) Individual Assessments, all such assessments and charges to be established and collected as hereinafter provided. The Annual Assessments, Special Assessments, and Individual Assessments, together with interest, costs, and reasonable attorneys' fees, shall be secured by a lien (the "Assessment Lien") on the Lot to which they relate, in favor of the Association, which shall be a continuing servitude and lien upon the Lot against which each such assessment or charge is made. The Assessment Lien shall be a charge on the Lot, shall attach from the date when the unpaid assessment or charge shall become due, and shall be a continuing lien upon the Lot against which each assessment is made. Each assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time the assessment becomes due. The personal obligation for delinquent assessments shall not pass to successors in title

unless expressly assumed by them. The Assessment Lien may be foreclosed by the Association in the same manner as a mortgage on real property upon the recording of a Notice of Delinquent Assessment or Charge as set forth in Section 5.6 hereof. The Association shall be entitled to purchase the Lot at any foreclosure sale. With regard to a Lot that was created by combining two or more previous lots, Annual and Special Assessments shall be calculated based on the number of lots that were combined to create such Lot

5.2. **Annual Assessments.** Commencing on January 1, 2007, an Annual Assessment shall be made against each Lot for the purpose of paying Common Expenses. The initial Annual Assessment for all Lots shall be two hundred fifty dollars (\$250) per Lot. An additional one hundred dollars (\$100) will be added to the Annual Assessment (resulting in an Annual Assessment of three hundred fifty dollars (\$350)) for all Lots containing a driveway, for the purpose of paying the cost of snow removal services, which services shall be the responsibility of the Association. After December 31, 2007, the Annual Assessment may be increased each year by not more than twenty-five percent (25%) above the Annual Assessment for the previous year without the assent of a majority of the votes held by the Members participating in a meeting in person, by proxy or by written ballot.

5.3. **Special Assessments.** The Association may levy, in any assessment period, a Special Assessment for the purpose of covering, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon any Common Areas, or for the purpose of paying other such expenses, regardless of when incurred, including, without limitation, attorneys' fees, provided that any such assessment shall have the assent of a majority of the votes held by the Members participating in a meeting in person, by proxy or by written ballot.

5.4. **Individual Assessments.** The Association may levy an Individual Assessment against any Lot for the purpose of reimbursing the Association for costs incurred in bringing such Lot or its Owner into compliance with the provisions of this Declaration and for fines or other charges imposed pursuant to this Declaration for violation thereof. Unless otherwise provided by the Board, Individual Assessments shall be due thirty (30) days after the Board has given written notice thereof to the Owners subject to the Individual Assessments.

5.5. **Establishment of Annual Assessment Period.** The period for which the Annual Assessment is to be levied (the "Assessment Period") shall be the calendar year beginning January 1. The Board, in its sole discretion from time to time, may change the Assessment Period by recording with the County an instrument specifying the new Assessment Period. The Board shall fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of the end of each Assessment Period. Written notice of the Annual Assessment shall be sent to each Member. Failure of the Association to send a bill to any Member shall not relieve the Member of liability for payment of any assessment or charge. The due dates shall be established by the Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specific Lot have been paid.

5.6. **Effect of Nonpayment.** Any assessment or charge or installment thereof not paid when due shall be deemed delinquent and, in the discretion of the Board, may bear interest from

thirty (30) days after the due date until paid at the rate of twelve percent (12%) per annum or other reasonable rate not to exceed eighteen percent (18%) per annum, and the Member shall be liable for all costs, including attorneys' fees, which may be incurred by the Association in collecting the same. The Board may also record a Notice of Delinquent Assessment or Charge against any Lot as to which an assessment or charge is delinquent. The Notice shall be executed by an officer or Trustee of the Association and shall set forth the amount of the unpaid assessment, the name of the delinquent Owner, and a description of the Lot. The Board may establish a fixed fee to reimburse the Association for the Association's cost in recording such Notice, processing the delinquency, and recording a release of such lien, which fixed fee shall be assessed as an Individual Assessment against the delinquent Owner and secured by the Assessment Lien. The Association may bring an action at law against the delinquent Owner and/or foreclose the lien against such Owner's Lot. No Owner may waive or otherwise avoid liability for the Assessments provided for herein by non-use of the benefits derived from assessments or abandonment of his Lot.

5.7. Priority of Lien. The Assessment Lien provided for herein shall be subordinate to any first mortgage lien held by, or first deed of trust of which the beneficiary is, a lender who has loaned funds with a Lot as security, or held by the lender's successors and assigns, and shall also be subject and subordinate to liens for taxes and other public charges. Except as provided above, the Assessment Lien shall be superior to any and all charges, liens, or encumbrances which hereafter in any manner may arise or be imposed upon each Lot. Sale or transfer of any Lot shall not affect the Assessment Lien.

5.8. Exempt Property. Any property dedicated to, and accepted by, a local governing body shall, after such dedication, be exempt from any Assessment authorized by this Declaration except to the extent such dedication includes any Lot utilized for the purpose of erecting a dwelling thereon.

ARTICLE 6: MAINTENANCE; INSURANCE

6.1. Maintenance of Common Areas. The Association, or its duly delegated representative, shall maintain and otherwise manage all Common Areas. This maintenance shall include such street cleaning and snow removal service as is required with respect to the Common Areas, as reasonably determined by the Association. The Board shall be the sole judge as to the appropriate maintenance of all Common Areas and other properties maintained by the Association. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of such properties shall be taken by the Board or by its duly delegated representative.

6.2. Assessment of Certain Costs. In the event that the need for maintenance or repair of Common Areas and other areas maintained by the Association is caused through the willful or negligent act of any Owner, his family, guests, or invitees, the cost of such maintenance or repairs shall be charged to such Owner as an Individual Assessment and shall be secured by the Assessment Lien.

6.3. Improper Maintenance. In the event any portion of any Lot or the exterior of any structure constructed thereon is so maintained as to present a public or private nuisance, or as to substantially detract from the appearance or quality of the surrounding Lots or other areas of the Property which are substantially affected thereby or related thereto; or in the event any portion of a Lot is being used in a manner which violates this Declaration; or in the event any Owner is failing to perform any of his obligations under this Declaration, the Board may by resolution make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Member that unless corrective action is taken within fourteen (14) days, the Board may cause such action to be taken at such Owner's cost. If at the expiration of such fourteen-day period of time the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such action to be taken, and the cost thereof shall be assessed as an Individual Assessment against the offending Owner and shall be secured by the Assessment Lien. The remedies described in this Section 6.3 and all other remedies granted to the Association by this Declaration may be exercised alone or in any combination all other remedies given to the Association under this Declaration, including, without limitation, the power to fine, as set forth in Section 2.3.

6.4. Insurance. The Association shall obtain in its name and keep in full force and effect at all times, insurance polices for such casualty and public liability and other insurance policies as the Board deems necessary; provided, however, that the Association shall at all times maintain not less than One Million and 00/100 Dollars (\$1,000,000.00) of commercial general liability insurance.

ARTICLE 7: PROPERTY RIGHTS IN COMMON AREAS

7.1. Easement of Enjoyment. Each Owner shall have a right and easement of use and enjoyment in and to any Common Areas. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom.

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

Lot No. _____, contained within Timphaven Homes Plat ____, as the same is identified in the Plat recorded in Book _____, at Page _____, and in the "Amended and Restated Declaration of Protective Covenants, Conditions and Restrictions for Timphaven Homes Plats 1-A, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12," (the "Declaration") recorded in Book _____ at Page _____, of the official records of the Utah County Recorder. TOGETHER WITH a right and easement of use and enjoyment in and to any Common Areas described and provided for in the Declaration and in the Plat thereof in the official records of the Utah County Recorder.

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

ARTICLE 8: DESIGN REVIEW AND CONTROL

8.1. **Architectural Control Committee.** In order to create, maintain and improve the Property as a pleasant and desirable environment, to establish and preserve a harmonious design for the community, to protect and promote the value of the Property, and to ensure compliance with the covenants, conditions and restrictions contained in Articles 8 and 9, all exterior residential improvements, construction, landscaping and changes or alterations to existing use shall be subject to review and approval by the Architectural Control Committee (the "Architectural Committee").

8.2. **Composition of Architectural Committee.** The members of the Architectural Committee shall be appointed by the Board. The Architectural Committee shall consist of at least three (3) but no more than five (5) members, the exact number of members to be designated from time to time by the Board. A majority of the Architectural Committee shall constitute a quorum, and when a quorum is present at any meeting of the Architectural Committee the vote of the majority of Architectural Committee members shall be the act of the Architectural Committee. In the event of the death, resignation or removal of any Architectural Committee member, the Board shall have full authority to designate and appoint a successor. Members of the Architectural Committee may be removed and replaced at any time, with or without cause, and without prior notice, by the Board. All members of the Architectural Committee shall be Owners, except that the Architectural Committee shall have the right, power and authority to employ and/or use the services of any architects, engineers or other professionals it deems necessary or advisable to assist the Architectural Committee in carrying out its duties and obligations.

8.3. **General.** No landscaping, grading, excavation, building, fence, wall, residence, or other structure, or alteration of any kind ("Improvements"), shall be commenced, erected, maintained, improved, altered, or made until: (a) the Architectural Committee has approved the plans and specifications ("Plans") for and the location of the proposed Improvements and has given its written approval for commencement of construction; (b) the fees set forth in Section 8.5 (the "Fees") have been paid; and (c) all necessary permits have been obtained from the appropriate governmental jurisdictions.

8.4. **Plans.** Any Owner wishing to construct Improvements shall submit Plans for the proposed Improvements to the Architectural Committee. The Architectural Committee shall publish requirements for Plans, which requirements shall vary depending on the nature of the proposed Improvements. Plans required to be submitted may include: (1) plot plans drawn to scale showing the entire site, building, garages, walks, drives, fences, lights, and retaining walls, with elevations of the existing and finished grades and contours including those at the outside corners of the buildings and at adjacent property lines and street fronts and elevations of floors from a designated point on the street; (2) detailed floor plans showing dimensions and measurements; (3) detailed elevations, indicating all materials and showing existing and finished grades; and (4) detailed sections, cross and longitudinal. Plans must be prepared by a registered civil engineer with a current seal. All subsequent additions to or changes or alterations in any Improvements shall be subject to the prior written approval of the Architectural Committee. Once approved by the Architectural Committee, no changes or deviations in or from the Plans shall be made without the prior written approval of the

Architectural Committee. Notwithstanding the foregoing, the Architectural Committee may, in its sole discretion, waive the requirement to submit Plans for proposed Improvements of a minor nature.

8.5. Fees. The Architectural Committee is expressly authorized to collect a fee, not to exceed one percent (1%) of the aggregate construction value of the Improvements, as an impact fee upon the Common Areas usage (the "Impact Fee"). The Architectural Committee may, in its sole discretion, waive the Impact Fee for proposed Improvements of a minor nature. The exact percentage shall be determined by the Board and shall remain uniform for periods of at least three (3) years. The Architectural Committee is also authorized to collect a Design Review Fee before any Plans shall be reviewed or approved by the Architectural Committee, the amount to be reasonably determined by the Board, to compensate the Architectural Committee for its time and effort in reviewing the applicable Owner's Plans. If necessary, the applicable Owner shall pay additional costs of architects and other professionals retained by the Architectural Committee to review the Plans.

8.6. Permits. Each Owner proposing to construct Improvements is responsible for obtaining the necessary permits from the appropriate governmental jurisdictions.

8.7. Procedure. Within sixty (60) days of receiving adequate Plans and payment of the Design Review Fee, the Architectural Committee shall notify the applicable Owner in writing of its decision to approve or disapprove the proposed Improvements. Such written notification shall include, in the case of disapproval, an explanation of the reasons for disapproval or, in the case of approval, any modifications to the Plans that will be required before construction of the Improvements may commence. If the Architectural Committee fails to respond within the time specified above, the Plans shall be deemed approved. Decisions of the Architectural Committee may be appealed in writing to the Board within thirty (30) days of the Architectural Committee decision. On appeal, the decision of the Board shall be final.

8.8. Construction. The Owner may not commence construction until the Impact Fee is paid and the Architectural Committee has received confirmation that the Owner has obtained the necessary permits from the appropriate governmental jurisdictions. Upon commencement, the construction time for the exterior portion of any structure shall not exceed twelve (12) months from start to finish. "Start" shall be the instant any foliage is cut or removed in anticipation of the landscaping or construction to be built. All building debris, excavation, dirt, etc., associated with the building process shall be removed within the twelve (12)-month period. Such debris, excavation, dirt, etc., shall not be permitted on any of the Common Areas. The Owner responsible for the construction of Improvements shall promptly restore any damaged areas of the Property to their prior condition as soon as practicable. The Architectural Committee may, in its sole discretion, extend the time periods allowed for construction and clean-up in cases where the delay is beyond the control of the Owner.

8.9. Liability. Neither the Architectural Committee nor any member thereof shall be liable for damages by reason of any action, inaction, approval or disapproval taken or given without malice by such member of the Architectural Committee with respect to any request made pursuant to the provisions of this Article 8.

8.10. **Enforcement.** The Architectural Committee, the Board and any agent or member thereof shall have the right of entry and inspection upon any Lot or portion of the Property for the purpose of determining whether there exist any Improvements which violate the terms of any approval by the Architectural Committee or the terms of this Declaration. As to nonconforming or unapproved Improvements, the Association may require any Lot Owner to restore such Owner's Lot or Improvements to the condition existing prior to the construction thereof (including, without limitation, the demolition and removal of any unapproved Improvements). In addition, where the offending Owner refuses to comply with the Association's requirement to remedy the nonconforming Improvements, the Association may, but has no obligation to, carry out such restoration, demolition and removal and charge the cost thereof as an Individual Assessment against the Lot upon which such Improvements were commenced or constructed.

8.11. **Variances.** The Architectural Committee, subject to the approval of the Board, may grant reasonable variances or adjustments from any conditions and restrictions imposed by Article 8 and Article 9 of this Declaration in order to overcome practical difficulties and prevent unreasonable hardships arising by reason of the application of the restrictions contained therein. Variances or adjustments may be granted only when such variances or adjustments are not materially detrimental or injurious to the Property, and shall not militate against the general intent and purpose of this Declaration.

ARTICLE 9: COVENANTS, CONDITIONS AND RESTRICTIONS

9.1. **Common Areas.** No cutting of vegetation, dumping, digging, filling, destruction or other waste shall be committed on the Common Areas without the prior written consent of the Association. There shall be no obstruction of the Common Areas, nor shall anything be kept or stored in the Common Areas, nor shall anything be altered or constructed or planted in or removed from the Common Areas, without the prior written consent of the Association. Each Owner shall be liable to the Association for any damage to any Common Areas caused by the negligence or willful misconduct of the Owner or his family, tenants, guests, agents, employees, or invitees.

9.2. **Land Use and Building Type.** No building shall be erected, altered, placed, or permitted to remain on any Lot other than one (1) single-family dwelling and private garage sufficiently sized for not less than two (2) vehicles (i.e., not less than twenty-two by twenty-two (22' x 22')). Carports may not be built. Any deviations from this requirement must be approved in writing by the Architectural Committee. No more than twenty percent (20%) of the total area of any Lot may be permanently removed from its natural state and covered by dwellings or other structures, provided, however, that decks shall not be considered for purposes of this 20% requirement. No dwelling or other structure shall exceed in aggregate square footage (inclusive of garages and other adjoining buildings) thirty percent (30%) of total Lot acreage. No building shall exceed nine thousand (9,000) square feet in size on any one Lot or combination of Lots. No vinyl siding or aluminum siding shall be permitted. Each Owner shall stake his Lot on all four corners to identify the Lot boundaries.

9.3. **Building Location.** No building inclusive of decks shall be located on any Lot nearer than thirty-five feet (35') from the center line of any currently existing road, street or travel easement nor nearer than fourteen feet (14') from any side or back lot line.

9.4. **Building Height.** No Lot shall have a dwelling or other structure that exceeds thirty feet (30') in height as measured in accordance with Uniform Building Code standards. Chimneys, flag poles and similar structures not used for human occupancy are excluded for purposes of calculating the height of a structure. If applicable Utah County ordinances are more restrictive, then they shall govern.

9.5. **Landscaping.** Landscaping shall include a combination of turf, trees, shrubs and ground cover. Ground cover may include vegetative vines, low-spreading shrubs, or annual or perennial flowering or foliage plants. No disturbance of any natural foliage area running along the front of Lots shall be permitted. All Owners shall keep their Lots free of debris and weeds and shall cause the same to be mowed on a regular basis, as necessary.

9.6. **Temporary Occupancy and Temporary Buildings.** No trailer, basement of any incomplete building, tent, shack, garage, or barn, and no temporary buildings or structures of any kind, shall be used at any time for a residence, either temporary or permanent. Temporary buildings or structures used during the construction of a dwelling on any property shall be removed immediately after the completion of construction.

9.7. **Accessory Structures and Facilities.** Patio structures, trellises, sunshades, gazebos, and any other appurtenant buildings shall be constructed of materials consistent with the colors, textures, and materials approved for the dwelling and shall be integral to the architecture of the house and subject to the prior written approval of the Architectural Committee. Outbuildings such as sheds and swimming pool and tennis court dressing facilities may be constructed on any Lot, subject to the approval of the Architectural Committee. All pools must be fenced in strict compliance with local ordinances and with the prior written approval of the Architectural Committee as to fence design and material.

9.8. **Exterior Antennas, Lights, and Power Lines.** A Lot Owner may install an exterior television antenna, provided: (1) a connection to a nearby television cable is not available; (2) a signal from a booster or transmitter is not adequately produced into the area; and (3) such antenna is approved by the Architectural Committee as to size, height and location. Exposed metal flues, vents, ventilators, or other metallic rooftop protrusions shall be coated or painted with a neutral color that will blend harmoniously with the surrounding Property. TV satellite dishes are permitted, provided they are placed or screened so they are not readily visible from the street in front of the dwelling and are not in excess of twenty-four inches (24") in diameter. Exterior lighting that is detached from the dwelling is subject to approval by the Architectural Committee. No shortwave radio antennas or large ground-mounted satellite dishes may be constructed on any Lot or attached to any structure thereon.

9.9. **Nuisances.** No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, and no odors or loud noises shall be permitted to arise or

emit therefrom, so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive, or detrimental to any other property in the vicinity thereof or to the occupants of such other property. No nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other property in the vicinity thereof or its occupants. Normal construction activities and parking in connection with the building of Improvements on a Lot shall not be considered a nuisance or otherwise prohibited by this Declaration, but Lots shall be kept in a neat and tidy condition during construction periods, trash and debris shall not be permitted to accumulate, and supplies of brick block, lumber, and other building materials will be piled only in such areas as may be approved by the Association. In addition, any construction equipment and building materials stored or kept on any Lot during construction of Improvements may be kept only in areas approved by the Association, which may require screening of the storage areas.

(a) No article, material, equipment, or vehicle of any nature shall be parked or stored on any street located within the Property without prior written consent of the Association. Licensed, regularly-used passenger vehicles (i.e., visitor vehicles) may be parked on streets within the Property for brief periods of time (i.e., less than twenty-four (24) hours). Overnight parking of such vehicles shall generally be restricted to the driveway of the dwelling being visited. Vehicles without four-wheel drive, chains or studded tires are restricted from traveling on roads within the Property whenever snow or ice is on these roads.

(b) The use or operation of ATVs and snowmobiles on roads within the Property is not permitted, except in cases of emergency where normal means of transportation are unavailable. The use of motorcycles and other motorized recreational vehicles which may produce audible annoyance to the Owners shall be limited to ingress and egress of the Property, except to the extent expressly permitted by the Association.

(c) No oil or gas drilling, development, operations, refining, storage, quarrying, or mining operation of any kind shall be permitted upon or in any Lot.

(d) The burning of rubbish, leaves, or trash on the Property is prohibited, except as may be specifically permitted by Utah County ordinance. All solid waste shall be placed in containers approved by the Association or Utah County.

(e) No Owner shall permit any thing or condition to exist upon any Lot that shall induce, breed, or harbor infectious plant diseases or noxious insects.

(f) The Association, in its sole discretion, shall have the right to determine the existence of any nuisance.

9.10. **Signs.** Except as provided in this Section 9.10, no signs of any kind shall be displayed to public view on any Lot except:

(a) as necessary to identify ownership of the Lot and its address, provided, however, that such signage shall not be larger than two (2) square feet in size;

(b) as necessary to give directions, provided, however, that such directional signs shall not be larger than two (2) square feet in size. Temporary directional shall be removed within twenty-four (24) hours of use. As necessary, permanent directional, warning and regulatory signs, such as speed limit, exit, caution, or one-way travel signs, shall be placed or authorized by the Association or appropriate governmental entities. Notwithstanding anything to the contrary, appropriate speed limit signs shall be posted along Association roads and along private roads which are maintained in part by the Association and which lead to the Association. The establishment of speed limits on Association roads shall be approved by the Owners. Effective signs to discourage non-Association traffic from entering the Property shall be provided;

(c) as necessary to prevent trespassing, such as “do not park,” “private road,” or “no thru land” signs, provided, however, that such signs shall not be larger than two (2) square feet in size;

(d) as necessary to advertise the property for sale or rent, provided, however, that such signs shall not be larger than five (5) square feet in size; and

(e) the display of residence numbers as determined by the North Fork Special Service District and the North Fork Fire Department is required.

9.11. **Animals.** No animals of any kind, shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may kept on Lots, provided they are not kept, bred or maintained for any commercial purpose, or in numbers deemed unreasonable by the Association. Notwithstanding the foregoing, such animals may not be kept when, in the judgment of the Association, they constitute a nuisance to the Owners in the vicinity. All animals permitted to be kept by this Section 9.11 shall be kept under the Owner’s control when on any portion of the Property. No dog shall be allowed to run unattended by its owner on the Property, unless the dog is constrained within a house or within a run. Notwithstanding the foregoing, the Owner of any Lot on which horses were kept prior to the effective date of this Declaration may continue to keep horses on such Lot. Any such horses shall be appropriately corralled and adequate provision made for their care and maintenance. No more than one (1) horse may be kept in a single stall, and no more than four (4) horses per half-acre may be maintained on any single Lot. All corrals and stables shall be appropriately maintained without burdening neighboring Lots with obnoxious odors or horse-related insects. Horses may not be kept when, in the judgment of the Association, they present a nuisance to neighboring Owners.

9.12. **Repair of Building.** No building or structure on any Lot shall be permitted to fall into disrepair, and each such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished. In the event any building or structure is damaged or destroyed, then, subject to the approvals required by Article 8, such building or structure shall be immediately repaired or rebuilt or shall be demolished.

9.13. **Restriction on Further Subdivision, Property Restrictions, and Rezoning.** No Lot shall be further subdivided or separated into smaller lots by any Owner, and no portion less than all of any such Lot, nor any easement or other interest therein, shall be conveyed or transferred by

any Owner, without the prior written approval of the Association, which approval must be evidenced on the Plat or other instrument creating the subdivision, easement, or other interest. No further covenants, conditions, restrictions, or easements shall be recorded by any Owner or other person against any Lot without the provisions thereof having been first approved in writing by the Association, and any covenants, conditions, restrictions, or easements recorded without such approval being evidenced thereon shall be null and void. No application for rezoning of any Lot and no applications for variances or use permits shall be filed with any governmental authority unless the proposed use of the Lot has been approved by the Board and the Architectural Committee and the proposed use otherwise complies with this Declaration.

9.14. **Non-Residential Use.** No Lot shall be used except for single family residential purposes. No gainful occupation, profession, or other non-residential use shall be conducted on a Lot, and no persons shall enter into any Lot for engaging in such uses or for the purpose of receiving products or services arising out of such usage without permission from the Association and the appropriate government officials. Notwithstanding the foregoing:

(a) Any Owner or his duly authorized agent may rent or lease said Owner's residential building from time to time; provided that all rules and regulations of the Association are brought to the attention of all renters or lessees and posted in a conspicuous place in the residence. The Owner shall remain responsible for carrying out his obligations and duties under the Governing Documents during the period of such rental.

(b) Any artist, artisan, craftsman or professional may pursue his artistic or professional calling in the privacy of his residence, provided such artist, artisan, craftsman or professional (1) has no employees working in the residence, (2) does not invite professional associates, clients or customers onto the Lot or into the residence for business purposes, and (3) does not advertise his products or services to the public upon the Lot or within the residence.

(c) Non-residential uses conducted in accordance with the Home Occupation provisions of the Utah County zoning ordinances shall be permitted.

9.15. **Fuel Storage.** All propane tanks must be UL-listed before installation. All propane tank installations require an installation permit from the Utah County Fire Marshall. Tanks may be installed above or below ground level, subject to the following conditions:

(a) **Below-Ground.** Tanks must be coated for underground use, have a proper corrosion protection system attached (either a magnesium or zinc sacrificial anode or a direct current system. The corrosion protection system must be inspected annually to ensure functionality. Tanks must be surrounded with a sand or pea gravel bed with no large rocks enclosed.

(b) **Above-Ground.** Tanks must be painted with a reflective colored paint (e.g., white), mounted on concrete (not cinder) blocks and be at least twenty-five feet (25') away from buildings or a sustained heat source (e.g., wood piles). Tanks smaller than five hundred (500) gallons require at least ten feet (10') of clearance from buildings and sustained heat sources.

Decorative structures may be used to cover or hide the tank as long as they are adequately ventilated and do not represent a sustained heat source.

9.16. **Building Material Storage.** No building material of any kind or character shall be placed or stored upon any Lot until the Owner thereof is ready to commence Improvements, and then the material shall be placed within the property lines of the Lot upon which the Improvements are to be erected and shall not be placed in the streets or between the curb and the property line.

9.17. **Easements.** Easements for installation of and maintenance of utilities, and drainage facilities are reserved as shown on the recorded Plats. Within these easements, 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 water tank lines or which may change the direction of flow of drainage channels in the area or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each of the Lots and all improvements thereon shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible. Each Lot Owner shall retain storm water and water used in connection with watering landscaping and otherwise on his own Lot.

9.18. **Drainage.** All drainage of water from any Lot and the improvements thereon shall drain or flow as follows:

(a) Any such water may drain or flow into adjacent streets and shall not be allowed to drain or flow upon, across or under adjoining Lots or Common Areas unless an easement for such purpose is granted.

(b) All slopes or terraces on any Lot shall be maintained so as to prevent any erosion thereof upon adjacent streets or adjoining property.

(c) Natural drainage of the unimproved portion of a Lot shall be deemed in compliance with this Section 9.18.

9.19. **Fire Protection.** The removal of dead fall and slash from all Lots is required. All roads within the Property must remain passable at all times, unless a temporary exception is granted by the North Fork Special Service District.

9.20. **Hazardous Activity.** No activities shall be conducted on any Lot and no Improvements constructed on any Lot which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any Lot; no open fires shall be lighted or permitted on any Lot except in a contained barbecue unit or fire pit in conformity with Utah County fire code while attended and in use for cooking purposes or within safe and well-designed interior fireplaces. No fireworks of any kind shall be ignited at any time on any Lot or Common Areas.

9.21. **Road Maintenance.** The Owners of each Lot are required to keep adjacent roads and fire hydrants free of rocks, debris, grit, overhanging foliage, and all other obstructions. The Association shall contract for and supervise winter road maintenance for all Common Area roads. The cost of winter road maintenance shall be shared by the Owners as part of the Annual Assessment. The Association shall also contract for and supervise snow removal for all private driveways located on the Lots. The cost of such snow removal shall be shared by the Owners of Lots containing private driveways as part of the Annual Assessment.

9.22. **Solar Equipment.** Solar panels are to be integrated into roof design. Panels and frames must be compatible with roof colors, all equipment must be screened from view, and prior written approval must be obtained from the Architectural Committee.

9.23. **Pools, Spas, Fountains, Game Courts.** Pools, spas, fountains, and game courts must be approved by the Architectural Committee and shall be located to avoid excessive impact to adjacent properties with light or sound. No game courts shall be located in front yards. Pool heaters and pumps must be screened from view and sound insulated from neighboring houses.

9.24. **Fences and Walls.** Fences and walls are to be color-coordinated with the approved dwelling colors. Use of landscaping materials for hedges and fencing is encouraged. No structures or fences shall be permitted within eight feet (8') of the right-of-way line for any street or public way. Fences, walls, or hedges shall not exceed six feet (6') in height; provided, however, that no wall, fence, or opaque hedge or screening materials shall be maintained within a required front yard. Installation of all fences and walls is subject to the prior written approval of the Architectural Committee and the reasonable approval of adjacent Owners.

9.25. **Parking and Storage.** No major mechanic work or repairs are to be conducted in streets or front yards of houses. No inoperative automobile or vehicle shall be placed or remain on any Lot or adjacent street for more than forty-eight (48) hours. No commercial-type vehicles and no trucks shall be parked or stored on the front yard setback of any Lot or within the side yard buildings setback on the street side of a corner Lot, or on the residential street except while engaged in transportation. Travel trailers, motorhomes, trucks over three quarter ton capacity, boats, campers not on a truck bed, motorhomes, buses, tractors, and maintenance or commercial equipment of any kind shall be parked or stored behind the front yard setback in an enclosed area screened from street view. Notwithstanding the foregoing, one truck and one horse trailer not screened from street view may be situated in an area established for the location of barns. Sufficient side yard gate access shall be planned and provided for in the design of the home to permit ingress, egress, and storage of trailers and recreational type vehicles on the side and rear yards. The storage or accumulation of junk, trash, manure, or other offensive or commercial materials is prohibited.

ARTICLE 10: DISPUTE RESOLUTION

10.1. Introduction. It is in the best interest of the Members, the Association, and its Trustees, officers, and committee members (the "Parties") to encourage the amicable resolution of disputes arising out of the legal rights and obligations described in the Governing Documents without the emotional and financial costs of litigation. Each Member and the Association agree that before filing suit in any court it will first submit to the alternative dispute resolution procedures set forth below, (the "ADR Procedures"), with respect to any claim, grievance or dispute arising out of or relating to the Governing Documents, (the "Claims"); provided, that a Party may demand arbitration prior to complying with the ADR Procedures if demanding arbitration is required to satisfy the statute of limitations for the Party's Claim. In such an event, the Party demanding arbitration shall simultaneously stay the arbitration until the ADR Procedures have been satisfied.

10.2. Exceptions. Notwithstanding the foregoing, the ADR Procedures shall not be required for the following Claims unless all Parties to the matter agree to submit the matter to the ADR Procedures:

- (a) any suit between Members which does not include the Association as a party, if such suit asserts a claim which would constitute a cause of action independent of the Governing Documents;
- (b) any suit in which any indispensable party is not bound by this Article 10;
- (c) actions by the Association to collect Assessments or other amounts due from any Owner; and
- (d) actions brought by the Association to obtain a temporary restraining order, preliminary injunctive relief, or other preliminary equitable relief and such ancillary relief as the court may deem necessary in order to enforce the provisions of this Declaration (an "Enforcement Action").

10.3. Procedure for Disputes Between Members.

- (a) **Good-Faith Discussion.** The aggrieved Party ("Complainant") shall attempt to resolve the Claim with the other Party ("Respondent") through good-faith discussion.
- (b) **Submission of Complaint.** If the Claim is not resolved through good-faith discussion, Complainant shall provide the Board and each Respondent with a written statement of the material facts of the Claim (the "Complaint"). The Complaint shall include the following:
 - (i) the nature of the Claim, including the parties involved and the Respondent's role in the Claim;
 - (ii) a brief description of the discussions of the parties and their attempts to resolve the Claim informally.

and (iii) copies of relevant documents supportive of Complainant's position;

(iv) Complainant's proposed resolution or remedy.

The Complaint must include all Claims that exist between the Parties at that time. Any Claim not included in the Complaint is expressly waived by the Complainant. Respondent shall have fifteen (15) days from receipt of the Complaint to file a response (the "Response") with the Complainant and the Board. The Response must include any Claim that the Respondent has concerning the Complainant at the time that the Response is submitted to the Board. Any Claim that is not included in the Response is expressly waived by the Respondent. The Response shall include any documents, descriptions, explanations or other material supporting the Response.

(c) **Review by Board.** The Board shall undertake a reasonable review of the Complaint and the Response and shall issue a written decision, including an explanation of the reasons for the decision, within thirty (30) days of receipt of the Response. A copy of the decision shall be sent to the Parties promptly via first class mail. The Board's decision shall be the final and binding resolution of the Claims submitted in the Complaint and the Response unless within thirty (30) days from the date that the decision is mailed either Party delivers to the Board and all other Parties a Notice of Objection to the Board's Decision and Intent to Submit to Mediation.

(d) **Mediation.**

(i) Within thirty (30) days of receipt of the Notice of Objection to the Board's Decision and Intent to Submit to Mediation, the Board shall contact the Parties with proposed mediation dates and a list of potential mediators. A neutral third-party or professional mediator that has been agreed to by the Parties shall conduct the mediation.

(ii) The mediation shall be held in the State of Utah at a location agreed upon by the Parties. Unless otherwise agreed by the Parties, the mediation shall take place no later than three (3) months from the date of the Board's decision. If the Parties do not agree to extend this period and mediation does not occur within this time period, then this requirement is deemed to be satisfied.

(iii) Unless otherwise agreed by the Parties, all fees and costs of the mediation shall be borne by the Party submitting the Notice of Objection to the Board's Decision and Intent to Submit to Mediation.

(e) **Arbitration.**

(i) All Claims between the Parties not otherwise resolved shall be submitted to binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Unless otherwise agreed upon by the Parties in writing, demand for arbitration must be made within thirty (30) days of the mediation or the expiration of the period

for holding the mediation as set forth above. Failure to demand arbitration timely is an express waiver of the Notice of Objection to the Board's Decision and Intent to Submit to Mediation, and upon such waiver the Board's decision becomes the final and binding resolution of the Claims.

(ii) In no event shall a Party be entitled to demand arbitration of a Claim after the time for taking legal action on the Claim has expired.

(iii) The arbitration shall be held in the State of Utah at a location agreed upon by the Parties or determined by the arbitrator.

(iv) The prevailing Party in the arbitration shall be awarded its reasonable attorneys fees and costs associated with the dispute. Punitive damages, however, shall not be awarded in any dispute. Judgment upon the award rendered by the arbitrator may be entered in any court within the State of Utah.

(f) **Procedure Subject to Change by Board.** The procedures outlined in this Section 10.3 may be amended from time to time by the Board without the consent of the Owners, as the Board deems necessary, in light of experience, to better accomplish the amicable resolution of disputes arising out of the legal rights and obligations described in the Governing Documents; provided, such modifications shall not take effect until three months after a copy of the new procedures is delivered to the Owners.

10.4. **Procedure for Disputes Between the Association and Members.** Subject to the provisions of Section 10.2, any Member who is not satisfied with the decision of the Board in a dispute involving that Member and the Association may follow the procedures outlined in Section 10.3(d) and (e) above.

ARTICLE 11: TERM; TERMINATION; AMENDMENT

11.1. **Term.** This Declaration shall be effective upon its recording in the office of the Utah County Recorder and, as amended from time to time, shall continue in full force unless and until it is terminated in accordance with the provisions of Section 11.2.

11.2. **Termination.** This Declaration may be terminated at any time by an affirmative vote of no less than ninety percent (90%) of the votes entitled to be cast by the Members participating in a meeting in person, by proxy or by written ballot, all in accordance with the Bylaws. If the necessary votes are obtained, the Association shall cause to be recorded in the office of the Utah County Recorder a "Certificate of Termination," duly signed by the President and Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon, the covenants herein contained shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in the Articles.

11.3. **Amendment.** This Declaration may be amended and/or restated at any time by an affirmative vote of no less than sixty-seven percent (67%) of the votes entitled to be cast by the

Members participating in a meeting in person, by proxy or by written ballot, all in accordance with the Bylaws. If the necessary votes are obtained, the Association shall cause to be recorded in the office of the Utah County Recorder a "Certificate of Amendment," duly signed by the President and Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged.

ARTICLE 12: MISCELLANEOUS

12.1. Interpretation. Subject to judicial construction, the Association, acting through the Board, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive, and binding as to all persons and property benefited or bound by the covenants and provisions hereof. Wherever necessary to implement the intent of the parties hereto, references herein to the singular shall be interpreted as the plural, and vice versa, and the feminine, masculine or neuter gender shall be treated as one of the other genders. The titles of the sections of this Declaration are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Declaration or the intent of any provisions hereof.

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

12.3. Rule Against Perpetuities. Each provision contained in this Declaration which is subject to the laws or rules sometime referred to as the rule against perpetuities or the rule prohibiting unreasonable restraints or alienation shall continue and remain in full force and effect for the period of twenty-one (21) years following the death of the last survivor of the issue of Gary D. Liddiard, and the now living children of such issue, or until this Declaration is terminated as hereinafter provided, whichever first occurs. All other provisions contained in this Declaration shall continue and remain in full force and effect in accordance with Section 11.1 hereof.

12.4. Rules and Regulations. In addition to the right to adopt rules and regulations on the matters expressly mentioned elsewhere in this Declaration, the Association shall have the right to adopt rules and regulations with respect to all other aspects of the Association's rights, activities, and duties, provided such rules and regulations are not inconsistent with the provisions of this Declaration.

12.5. Run with the Land. The Association for itself, its successors, and assigns, hereby declares that all of the Property shall be held, used, and occupied subject to the provisions of this Declaration, and to the covenants and restrictions contained herein, and that the provisions hereof shall run with the land and be binding upon all persons who hereafter become an Owner of any interest in the Property.

IN WITNESS WHEREOF, the Association has executed this Declaration as of the date first above mentioned.

TIMPHAVEN HOMES INC.,
a Utah nonprofit corporation

By: *Gary D. Liddiard*
Gary D. Liddiard, President

STATE OF UTAH)
) ss:
COUNTY OF UTAH)

On the 2 day of January 2007, personally appeared before me Gary D. Liddiard, who being by me duly sworn, did say that he is the president of Timphaven Homes Inc., a Utah nonprofit corporation, and that the within and foregoing instrument was signed on behalf of said corporation by authority of its organizational documents and that the corporation executed the same.

[Seal]

Jennifer Matthews
Notary Public

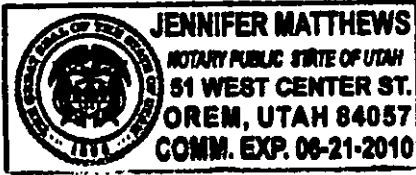


EXHIBIT A
to
AMENDED AND RESTATED
DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS
FOR TIMPHAVEN HOMES
Plats 1-A, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12

Legal Description of the Property

Plats 1-A, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12, Timphaven Homes, Planned Dwelling Group, Utah County, Utah, according to the official plats thereof, on file and of record in the office of the Utah County Recorder, including the following lots:

Plat	Lot	Serial Number
1-A	1	53-028-0001
1-A	2	53-028-0002
1-A	5	53-028-0005
1-A	6	53-028-0006
1-A	9	53-028-0009
1-A	10	53-028-0010
1-A	11	53-028-0011
1-A	12	53-028-0012
1-A	13	53-028-0013
1-A	14	53-028-0014
1-A	15	53-028-0015
1-A	16	53-028-0016
1-A	17	53-028-0017
1-A	20	53-028-0020
1-A	21	53-028-0021
1-A	24	53-028-0024
1-A	25	53-028-0025
1-A	26	53-028-0026
1-A	27	53-028-0027
1-A	28	53-028-0028
1-A	29	53-028-0029
1-A	30	53-028-0030
1-A	31	53-028-0031

Plat	Lot	Serial Number
2	2	53-029-0001
2	5	53-029-0004
2	6	53-029-0005
2	7	53-029-0006
2	8	53-029-0007
2	9	53-029-0008
2	10	53-029-0009
2	11	53-029-0030
2	12	53-029-0011
2	13	53-029-0012
2	14	53-029-0013
2	15	53-029-0014
2	16	53-029-0015
2	17	53-029-0016
2	18	53-029-0017
2	19	53-029-0018
2	20	53-029-0019
2	21	53-029-0020
2	22	53-029-0021
2	23	53-029-0022
2	24	53-029-0023
2	25	53-029-0024
2	26	53-029-0025

Plat	Lot	Serial Number
2	29	53-029-0028
2	30	53-029-0029
3	1	53-030-0001
3	2	53-030-0002
3	4	53-030-0004
3	5	53-030-0005
3	10	53-030-0010
4	1	53-115-0001
5	1	53-120-0001
6	1	53-127-0001
7	6	53-192-0006
7	7	53-192-0007
7	8	53-192-0008
7	9	53-192-0009
8	1	53-212-0001
8	2	53-212-0002
9	1	53-213-0001
9	2	53-213-0002
10	1	53-227-0001
10	2	53-227-0002
11	1	53-352-0001
11	2	53-352-0002
12	1	53-365-0001