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RODNEY D. CAMPBELL  
UTAH COUNTY RECORDER  
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RECORDED FOR TIMPHAVEN HOMEOWNERS

**SECOND 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, 12 and 13**

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This Second Amended and Restated Declaration of Protective Covenants, Conditions and Restrictions for Timphaven Homes ("Restated Declaration") is made this \_\_\_ day of \_\_\_\_\_, 2010, by and between the owners of lots in Timphaven Homes, as hereinafter set forth (the owners of lots in the various phases of Timphaven Homes shall collectively be referred to hereinafter as the "lot owners").

**RECITALS**

A. The Association is the homeowners' association of the lot owners in Timphaven Homes 1-A, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 (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 Restated Declaration (the "Property") is located in Utah County, Utah, and is more particularly described in 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 roughly<sup>1</sup> 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, 12 and 13; and (3) all<sup>2</sup> 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 2007 Declaration, a majority of the owners of the lots contained within Original Plat 1-A voted to change the 2007 Declaration by adopting this Restated Declaration as an amendment, restatement and replacement thereof; (2) the 2007 Declaration, a majority of the owners of the lots contained within Original Plat 2 voted to change the 2007 Declaration by adopting this Restated Declaration as an amendment, restatement and replacement thereof; (3) the 2007 Declaration, a majority of the owners of the lots contained within Original Plat 3 voted to change the 2007 Declaration by adopting this Restated Declaration as an amendment, restatement and replacement thereof.

E. In consideration of the foregoing, the Original Declarations, and any amendments thereto, including but not limited to the 2007 Declaration, are hereby amended, restated and replaced in their entirety by this single consolidated Restated Declaration, which subjects the Property to a common scheme and plan for the possession, use, enjoyment, repair, maintenance, restoration, and improvement of the Property.

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 Restated 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.

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<sup>1</sup> The following lots contain additional property that has been annexed since the recording of the Original Plats and were 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).

<sup>2</sup> 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.

# Restated Declaration

## ARTICLE 1

### DEFINITIONS

The following words, phrases, or terms used in this Restated 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 hereof.
- 1.2 **“Architectural Committee”** shall mean and refer to the Architectural Control Committee established pursuant to Article 8 and Addendum “B”.
- 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 5.
- 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 Restated 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 Restated Declaration, all expenses expressly declared to be Common Expenses by this Restated Declaration or the Bylaws, and all other expenses which the Association is entitled to incur pursuant to the provisions of this Restated Declaration or the Bylaws.
- 1.10 **“Governing Documents”** shall mean this Restated Declaration and its exhibits and addenda, the Association’s 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 3.1.

- 1.13 **“Owner”** shall mean and include anyone who is a Member.
- 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 Restated 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 Restated Declaration. If the Association prevails in any procedure to enforce the provisions of this Restated 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 the violation of the terms, covenants, conditions or restrictions set forth in the Association’s Governing Documents. Fines may not be imposed by the Association unless and until a schedule of fines (the “Fine Schedule”) consistent with U.C.A. §57-8a-208 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. Attached hereto as Exhibit “D” are the community rules adopted by the Association governing the assessment of fines.

## ARTICLE 3

### MEMBERSHIP 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 at any Association meeting by any of such Owners, whether in person or by proxy, or without a meeting 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 attempt to 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. Nothing herein shall create any liability to the Association in the event it does not possess a current list of Owners.

## 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 Governing Documents. The number, qualifications and terms of office of Trustees shall be determined in accordance with the Governing Documents. 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 of gross negligence or 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 attorney 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 Section the recording of a Notice of Delinquent Assessment or Charge as set forth in 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.** An Annual Assessment shall be made against each Lot for the



purpose of collection 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. 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 who are voting in person or by proxy at a meeting duly called for such purpose, or without a meeting 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, attorney fees, provided that any such assessment shall have the assent of a majority of the votes held by the Members who are voting in person or by proxy at a meeting duly called for such purpose, or without a meeting 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 Restated Declaration and for fines or other charges imposed pursuant to this Restated 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 attorney 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

OR ITS DESIGNEE

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 Restated 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 Restated Declaration; or in the event any Owner is failing to perform any of his obligations under this Restated 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 Restated Declaration, may be exercised alone or in any combination with all other remedies given to the Association under this Restated 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 policies 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 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 there from.
- 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 Restated 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 mountain environment where carefully designed, quality homes blend in with the landscape; and to honor the rustic exterior design, solace and sanctity of the neighborhood; establish and preserve a harmonious design for the community; protect and promote the value of the Property; and ensure compliance with the covenants, conditions and restrictions contained herein, 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"). The composition, powers, duties, responsibilities, procedures, fees, and processes to be followed by the Architectural Committee are set forth in Addendum "B", titled "Architectural Committee, Design and Review", attached hereto and hereby incorporated as part of this Restated Declaration.

- 8.2 Architectural Standards.** Architectural Standards have been adopted by the Association and are set forth in Addendum "C", attached hereto and incorporated herein by this reference. The Architectural Standards set forth in Addendum "C" shall govern the exterior residential improvements, new construction of homes on Lots, landscaping, and changes or alterations to existing homes. In addition to the those provisions set forth in Addendum "B", the Architectural Committee shall also have the powers, duties and responsibilities set out in Addendum "C".

## ARTICLE 9

### COVENANTS, CONDITIONS AND RESTRICTIONS

- 9.1 Common Areas.** No cutting or destruction of vegetation, dumping of trash, rubbish, or debris of any kind, or digging or filling shall be permitted 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.** Refer to Addend B & C, attached.
- 9.3 Building Location.** Refer to Addend B & C, attached.
- 9.4 Building Height.** Refer to Addend B & C, attached.
- 9.5 Tree Removal and Landscaping.** Maintenance of the existing landscape and plant life are the responsibility of the Property Owners.
- (A) No disturbance of any natural foliage area running along the front of Lots shall be permitted, except that all street-front foliage and vegetation must be trimmed back from the road's edge by a minimum of 18 inches, and tree branches must be not overhang into the road except at heights above 13.6 feet (to allow room for large fire trucks.) Tree replacement and the number of trees required shall be determined by the Architectural Committee by the availability of the land to accommodate said tree. 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 **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 not in excess of thirty (30") inches in diameter. Exterior lighting that is detached from the dwelling is subject to approval by the Architectural Committee. No shortwave radio antennas may be constructed on any Lot or attached to any structure thereon except when approved for emergency communications..
- 9.8 **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 there from, 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 Restated 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) **Street Parking** — No 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.
- (B) **Vehicle storage** — No truck larger than a pickup, mobile home, motor home, camper, boat, or similar over-sized equipment shall be permitted to remain upon any Lot, unless placed or maintained within an enclosed garage or within the area of the Lot designated by the Board for the parking of vehicles and equipment; nor permitted to be parked other than temporarily, on any street, alley, or Common Areas adjacent to the owner's property, or within the Common Areas. Temporary parking shall mean parking of vehicles belonging to guests of Members, delivery trucks, service vehicles and other commercial vehicles being used in the furnishing of services to the Association or the Members and parking of vehicles belonging to or being used by Members for loading and unloading purposes. The Board may adopt rules for the regulation of the admission and parking of vehicles within private properties or common areas, including the assessment of fines to Property Owners who violate, or whose invitees violate, such rules.

- (C) No noxious or offensive trade or activity shall be conducted on upon any Lot or any part of the covered property, nor shall anything be done thereon which may be, or may become an annoyance or nuisance to the neighborhood, or which shall, in anyway, interfere with the quiet enjoyment of each of the Members of his respective dwelling or property, or which shall in any way increase the rate of insurance.
- (D) The use or operation of ATVs and snowmobiles on roads within the Property is not permitted, except in cases of emergency road maintenance and snow removal 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.
- (E) No oil or gas drilling, development, operations, refining, storage, quarrying, or mining operation of any kind shall be permitted upon or in any Lot.
- (F) 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.
- (G) 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.
- (H) The Board in its sole discretion shall have the right to determine the existence of any nuisance.

**9.9 Signs.** 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 (as required by the North Fork Special Service district), 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 five (5) 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;
  - (i) 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 five (5) square feet in size;
  - (ii) 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

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

- 9.10 **Animals.** No animals of any kind shall be raised, bred or kept on any Lot, except dogs, cats or other household pets, 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 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. Dogs which create a barking nuisance may not be kept. Cats must be constrained within a house. Notwithstanding the foregoing, the Owner of any Lot on which horses were kept prior to the effective date of this Restated 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.
- 9.11 **Maintenance and Repair of Building.** All Lots and all improvements on any Lot shall be kept and maintained by the Member thereof in clean, safe, attractive and sightly condition and in good repair. 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 Addenda B & C, such building or structure shall be immediately repaired, rebuilt, or demolished.
- 9.12 **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 Restated Declaration.
- 9.13 **Single Family Use.** No Lot shall be used except by a single-family for residential purposes. As used herein, "single-family" shall mean, (1) a group of natural persons related to each other by blood or legally related to each other by marriage or adoption, or (2) a group of not more than three persons not all so related, inclusive of their domestic servants, who maintain

a common household in a residence on a Lot.

**9.14 Non-Residential Use.** 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 of the property permitted by this section 9.14 shall be conducted in accordance with the Home Occupation provisions of the Utah County zoning ordinances.

**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.

- (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.



**ARTICLE 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.

**ARTICLE 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.

**ARTICLE 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

**ARTICLE 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, and only 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.

**ARTICLE 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 Member is required to remove unsightly weeds along adjacent roadways. The Board 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.

**ARTICLE 9.22 Solar Equipment.** Refer to Addend B & C, attached.

**ARTICLE 9.23 Pools, Spas, Spas, Game Courts.** Refer to Addend B & C, attached.

**ARTICLE 9.24 Road Usage:** Only vehicles with four-wheel drive or appropriate traction devices are allowed on Association Roads whenever snow or ice is present. Studded snow tires are recommended. Vehicles violating these rules may be impounded or cited. Private vehicles (belonging to property owners and their guests) are to be parked within property boundary lines and designated parking spaces of each specific property. Contractor's vehicles, as well as delivery trucks, cement trucks, dump trucks, backhoe tractor-trailers, and any other type of equipment or vehicle associated with a construction project, are to be parked on the property designated as the job site. In the event that additional parking or loading/unloading space is temporarily required, vehicles and/or equipment must be parked far enough off of the road to allow private and emergency vehicles to pass by. Vehicles which obstruct roadways are subject to citations by the Sheriff's Office and fines by the Timphaven Home Owner's Association.

**Violation of County Ordinances:** Nothing herein shall give any Member the right to violate any ordinances of Utah County and where any activity allowed herein is proscribed by said ordinances, said ordinances shall have priority

## 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:
  - 1. the nature of the Claim, including the parties involved and the Respondent's role in the Claim;
  - 2. a brief description of the discussions of the parties and their attempts to resolve the Claim informally.

3. copies of relevant documents supportive of Complainant's position;  
and
4. 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.

1. 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.
2. 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.
3. 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.

1. 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 within 30 days 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.

2. 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.
3. The arbitration shall be held in the State of Utah at a location agreed upon by the Parties or determined by the arbitrator.
4. 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 Owners, whether in person or by proxy, at a meeting held for such purpose at which a quorum is present, or without a meeting 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, whether in person or by proxy, at a meeting held for such purpose at which a quorum is present, or without a meeting 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.

**CERTIFICATE OF AMENDMENT**

It is hereby certified that Owners holding at least than sixty-seven percent (67%) of the votes entitled to be cast by the Members participating in a duly noticed meeting of the Owners, in person or by proxy, have voted to approve this Restated Declaration.

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

**TIMHAVEN HOMES INC.,**  
a Utah nonprofit corporation

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

By: *Trieste Wilde*  
Vice-President Trieste Wilde

STATE OF UTAH            )  
  SS:

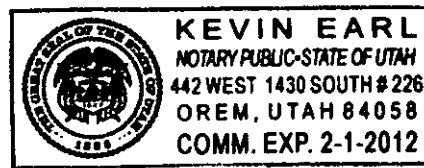
COUNTY OF UTAH        )

On the 22<sup>nd</sup> day of December 2010, 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 did acknowledge that the within and foregoing instrument was signed in behalf of said corporation.

*Kevin Earl*

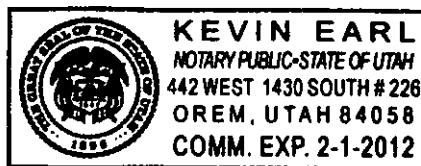
Notary Public

STATE OF UTAH            )  
  SS:



COUNTY OF UTAH        )

On the 22<sup>nd</sup> day of December 2010, personally appeared before me Trieste Wilde, who being by me duly sworn, did say that he is the vice-president of Timphaven Homes Inc., a Utah nonprofit corporation, and did acknowledge that the within and foregoing instrument was signed in behalf of said corporation.



*Kevin Earl*



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

TIMPHAVEN HOMES INC.,  
a Utah nonprofit corporation

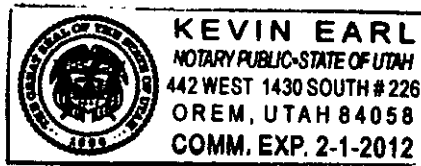
By: *Gary D. Liddiard*  
Gary D. Liddiard, President

STATE OF UTAH            )  
                                  ) SS:  
COUNTY OF UTAH        )

On the 22<sup>nd</sup> day of ~~January~~ <sup>December</sup> 2010<sup>th</sup>, 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 in behalf of said corporation by authority of its organizational documents and that the corporation executed the same.

[SEAL]

*Kevin Earl*  
Notary Public



**ADDENDUM "B"****ARCHITECTURAL COMMITTEE, DESIGN AND REVIEW**

(The capitalized words herein shall have the same meaning as set forth in Article I of the Second Amended and Restated Declaration of Protective Covenants, Conditions and Restrictions for Timphaven Homes, unless they are otherwise defined herein.)

1. **Composition of Architectural Committee.** The members of the Architectural Committee ("Architectural Committee" or "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 Committee members shall be the act of the Architectural Committee. In the event of the death, resignation or removal of any Committee member, the Board shall have full authority to designate and appoint a successor. Members of the Committee may be removed and replaced by the Board at any time, with or without cause, and without prior notice. 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 Committee in carrying out its duties and obligations.
2. **General Provisions.** The Architectural Committee shall have the powers, duties and responsibilities set forth herein:
  - 2.1 The Association has adopted and promulgated Architectural Standards (set forth in Addendum "C" and attached to the Restated Declaration). The Architectural Committee shall enforce the restrictions and limitations set forth in the Architectural Standards, including but not limited to those dealing with:
    - (a) Time limitations for the completion of any architectural improvements for which Board approval is required.
    - (b) The conformity of completed architectural improvements to plans and specifications and to the Architectural Standards.
  - 2.2 The Architectural Committee shall have the authority to implement, in writing, those additional rules and guidelines deemed necessary to implement and apply the requirements set forth in the Architectural Standards, and to make reasonable rules consistent with the requirements contained in the Architectural Standards.
  - 2.3 The Committee may establish reasonable rules for its operation.

- 2.4 The Architectural Committee may employ, with approval of the Board, such architects, engineers and other consultants as it deems necessary to carry out its responsibilities or to conduct said architectural reviews.
- 2.5 The address of the Architectural Committee shall be the principal office or residence of the Chair of the Committee. Such address shall be the place for the submittal of plans and specifications and the place where the rules of operation for the Architectural Committee shall be kept.
- 2.6 The establishment of the Architectural Committee and the systems herein for architectural approval shall not be construed as changing any rights or restrictions upon Property Owners to maintain, repair, alter, modify or otherwise have control over the Dwellings or Lots as may otherwise be specified in this Declaration, the By Laws or the Association Rules.

### 3. Plans.

- 3.1 Any Owner wishing to construct improvements on the Owner's Lot shall submit to the Committee, prior to any construction, grubbing, excavation or preliminary work on the Lot, written plans as set forth herein for the proposed improvements. Plans to be submitted include:
  - (a) 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;
  - (b) detailed floor plans showing dimensions and measurements;
  - (c) detailed elevations, indicating all materials and showing existing and finished grades; and
  - (d) detailed cross and longitudinal sections.
- 3.2 Plans must be prepared by a registered Utah civil engineer and wet stamped 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 Committee, no changes or deviations in or from the plans shall be made without the prior written approval of the Committee. Notwithstanding the foregoing, the Chair may, in its sole discretion, waive the requirement to submit plans for proposed improvements of a minor nature.
- 3.3 Plans for the proposed development shall take into consideration any geologic hazards, such as unstable soils, landslides, avalanches, slope, rock falls, flash flood

corridors, flood plains which may occur on this site. Reasonable efforts to mitigate these hazards must be taken.

- 3.4 No buildings, erections, or structures of any kind, including but not limited to dwelling houses, additions to dwelling houses, barns, stables, and garages, nor any fences, walls, sporting or athletic courts, shall ever be erected, altered or permitted to remain on any lands within the Association, unless the complete architectural plans and specifications, a site plan, a grading or excavation plan showing the elevation, location and orientation thereof are approved by the Architectural Committee prior to the commencement of such work.
- 3.5 A key objective of the Architectural Committee is to ensure that all developments, or improvements are in harmony with the natural environment and quality, design, and appearance that are expected to be reflected in mountain homes and related structures within the Association. The Committee will evaluate each building's external materials, building features and design, placement and impact of structure within the lot and the surrounding neighborhood and the consideration of landscaping and minimal impact on the surrounding land, including native trees, plants, and terrain.
4. **Fees.** The Board is expressly authorized to collect a Construction Bond (as defined hereafter) and a Construction Impact Payment (as defined hereafter) from the Owner related to the Owner's construction project.
  - 4.1 The Board may, in its sole discretion, waive all or part of the Construction Impact Payment 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.
  - 4.2 The Owner shall pay additional costs of architects and other professionals retained as needed by the Architectural Committee to review the plans.
5. **Permits.** Each Owner proposing to construct improvements is responsible for obtaining the necessary permits and inspections from the appropriate governmental jurisdictions. The following is a list of those codes, permits, inspections and reviews that the Board is currently aware of that must be adhered to:
  - 5.1 **Applicable Codes:**
    - (a) Uniform Fire Code;
    - (b) International Building Code;
    - (c) Uniform Plumbing Code;
    - (d) Uniform Mechanical Code;
    - (e) Utah County Building Code, which uses the International Building Code;
    - (f) Utah County Urban Interface Regulations;

**5.2 Permits and Inspections:**

- (a) Utah County Permit, Health Department and Fire Marshall approval;
- (b) Architectural Committee review and approval as per Architectural Standards;
- (c) County job site inspections;
- (d) Architectural Committee job site inspections as per Architectural Standards;
- (e) County final inspection;
- (f) Two or more members of the Architectural Committee and/or Board final inspection/approval as per Architectural Standards for the purpose of releasing construction bond moneys to the property owner.

**5.3 Property must be reviewed for:**

- (a) Soil stability;
- (b) Continuation of natural drainage;
- (c) Run off water quality.

**5.4 Water Issues**

- (a) All water issues must be settled with and approved by the North Fork Special Service District.

**6. Application and Procedures**

**6.1** Prior to Meeting # 2 (see ¶ 7.1, below) and if possible, prior to Meeting # 1 (see ¶7.2, below) the applicant shall submit one (1) copy of a proposed site plan to the Architectural Committee. Information required to be submitted with the site plan application includes:

- (a) Name, address, telephone number of the applicant, architect, engineer and surveyor. Professional license numbers of the architect, engineer and surveyor shall also be indicated.
- (b) Subdivision and Lot number for the proposed improvement.
- (c) A location map clearly showing and identifying the general location and boundaries of the subject property. This map should convey the conceptual aspects of the plan and allow for effective evaluation of placement of all structures on the Lot. Other equivalent architectural scales may be used.
- (d) Date of preparation, revision box, written scale, graphic scale, and north arrow (designated as true north).

- (e) Clearly identified boundary lines, corner pins, and dimensions of the subject property.
  - (f) Location, directional orientation, height, building elevations, and dimension of all structures, existing and proposed, with total number of square feet of floor area.
  - (g) Parking areas and driveways will be shown, with locations and dimensions.
- 6.2 Revised plans with changes/improvements shall be submitted to the Architectural Committee for review and approval. Notwithstanding the foregoing, the Architectural Chair may, in its sole discretion, waive the requirement to submit plans for proposed improvements of a minor nature.

## 7. Construction Project Planning and Approval Process

The following three scheduled meetings and an architectural review will take place prior to and at the end of the construction project. They will serve as review and approval points within the construction project:

### 7.1 Meeting #1 (conducted at the job site): Orientation and Site Plan Review

- (a) **Those to be present:** Owner, architect or contractor, and Architectural Committee Chairperson and other appointed person/s;
- (b) **Purpose:** To discuss the Architectural Standards, site constraints, and objectives set forth in the Restated Declaration as they relate to the building project and the natural mountain environment.
- (c) **Documents:** The Owner has responsibility to be familiar with and obtain copies of the following documents:
  - (1) The Timphaven Restated Declaration and its attached Addenda, including but not limited to this Addendum "B" and the Architectural Standards set forth in Addendum "C";
  - (2) the "Construction Project Owner Checklist";
  - (3) the Construction Project Contract.
- (d) The Architectural Committee Chairperson will inform the Owner and his/ her representative (Developer, Contractor, etc.) of the following requirements that must be fulfilled by the Owner or his/her representative prior to the approval of the Owner's construction project:

- (1) **Construction Project Cost Estimate:** The Owner/s (or Owner's representative) must supply to the Architectural Committee, prior to Meeting # 2 (see ¶ 7.2, below) a written Construction Project Cost Estimate, signed by the Owner/s.
  - (2) **Construction Bond Fee:** The owner/s must pay a Construction Bond Fee to the HOA Board or the Architectural Committee, as specified in this Section Timphaven HOA Restrictive Covenants.
  - (3) **Construction Project Contract** The Owner/s (and Owner's representative, if applicable) must sign a Construction Project Contract. This contract is supplied by the HOA Board or the Architectural Committee and serves as a signed commitment from the Owner (and Owner's representative if applicable) to adhere to the requirements of the Restated Declaration and the Addenda attached thereto throughout the term of the construction project.
  - (4) Failure of the Architectural Committee Chairperson to inform the Owner and his/ her representative (Developer, Contractor, etc.) of the requirements contained in this paragraph 7.1(d) shall not relieve the Owner or his representatives from strict compliance with these requirements.
- (e) **Site Plan, Topographic Survey & Stakeout.** The owner, architect or contractor will submit a site plan, including a topographic stakeout, to the Architectural Committee Chairperson. Preliminary ideas must be transposed onto the site plan in the form of a survey or equivalent diagram of the lot showing elevation contour lines. The site plan should show the house location, garage, driveway, parking, septic field layout, propane tank location, retaining walls and topography changes.
- (1) The location of each improvement within the buildable area must be approved within the site plan review and must be consistent with applicable regulations of Utah County and the standards set forth in this Addendum "B" and in Addendum "C". In determining the proper location for each improvement, the Architectural Committee shall consider the location of existing and future improvements on adjacent sites and such other monetary or aesthetic considerations as it may deem necessary.
  - (2) The location of the structure shall be defined with wood or steel stakes and shall identify the location of all corners of each structure. The outside edge of the structure's roof overhang (not the structure's foundation wall) will be used to mark and outline the structure/s, and the roofline outer edge may not extend into the easement area of any

property line.

- (3) The outline of the structure shall be marked by connected strings between corner stakes. Side and front boundary lines may also be required to be marked in a similar manner. The main floor elevation (including all rooflines) of the structure shall be clearly marked on the plans in relation to the stakes.
  - (4) All property corners must be clearly marked by the site owner's surveyor.
  - (5) All trees proposed for removal shall be tagged with bright colored plastic tape; no trees, shrubs or ground cover shall be removed before the Architectural Committee's stakeout inspection since these would be lost if the structure is relocated or other impediments to the project appear.
  - (6) Stakeout inspections shall be conducted at a time when the site is free of snow or can be reasonably observed.
  - (7) Driveway locations will be staked at each side of the drive at ten (10) foot intervals from the main access road to the site.
  - (8) All other improvements, including septic field and propane tank location, shall be staked at this time.
  - (9) The location of proposed material storage shall be designated, as well as the concrete truck wash-out site, if applicable.
- (f) One (1) copy of the "preliminary" plans will be reviewed by the Architectural Committee prior to Meeting # 1, if prepared by the Owner. These plans should include:
- (1) renderings
  - (2) four elevations
  - (3) philosophy of design (w/consideration of the mountain environment)
- (g) Approval of preliminary plans at this stage is necessary to proceed with working drawings.
- (h) No work, cutting of trees, or digging shall commence without working drawing approvals. Access for equipment to determine soil bearing capabilities and for soil percolation may be allowed with written permission from the Committee.



**7.2 Meeting #2: Working Drawing Review**

- (a) Any changes to the preliminary plans made subsequent to any plans reviewed in connection with Meeting # 1 must be reviewed and approved by the Architectural Committee.
- (b) Two (2) copies of the following documents must be supplied by the Owner/s (and/or Owner's representative) at meeting # 2: (one set of plans must include a Utah civil engineer's stamp for structural specifications):
  - (1) Construction Project Cost Estimate (signed by Owner/s);
  - (2) floor plans (2 copies);
  - (3) roof plans (2 copies) showing how snow-load requirements are met. Caution: Accumulated snow depths can exceed 15 – 20 feet annually. Roof valleys are a primary source of water leaks, and decks, propane regulators, windows, etc. have been destroyed by snow and massive icicles falling from rooflines. Ice weight is 60 pounds per sq. foot!
  - (4) exterior elevations (2 copies);
  - (5) building sections (2 copies);
  - (6) material samples, including colors of the followings: siding (wood, stucco, stone, etc.), roof, exterior trim, stain shades and colors;
  - (7) landscape plan;
- (c) The owner shall sign a Construction Project Contract agreeing to abide by the provisions in the Stated Declaration, and Addenda "B" and "C" during all phases of the construction project.
- (d) Noncompliance by the Owner with any of the provisions set forth in the Restated Declaration and/or Addenda "B" or "C" may result in any of the following actions by the Association:
  - (1) the Property Owner's loss of voting right;
  - (2) a stop work order from the Board until such time as the conditions of non-compliance are satisfied;
  - (3) fines assessed against the Property Owner to be paid from Owner's Construction Bond;

- (4) a lien placed on the Property to cover review, repair, impact fees and fines;
  - (5) a complaint filed in district court seeking an injunction and/or declaratory relief, plus reimbursement of the Association's legal fees.
  - (6) any other remedy available under Utah law.
- (e) **Architectural Committee Review.** Once all items required in Meeting #2 have been submitted by the Owner and are complete, the Architectural Committee will conduct a review of the Owner's construction project plan. Following this review process (to be completed in 60 days or less), a Construction Bond will be required before an approval will be granted by the Architectural Committee and commencement of tree cutting, excavation and building can take place.
- (f) **Construction Bond.** Prior to the issuing of any approval permits, and prior to the commencement of any construction on the project (including the clearing of trees from any lot), the Owner shall submit moneys to the Board equaling 2.5% of total cost of the proposed construction project. These moneys, referred to as the "Construction Bond", will be placed by the Board in an interest bearing trust account and utilized by the Board as follows:

**Non-refundable fees from the Construction Bond.**

- (1) **Construction Impact Payment.** A non-refundable Construction Impact Payment equaling 1% of the proposed cost of construction (exclusive of the value of the lot) will be removed from the owner's Construction Bond by the Board. This Construction Impact Payment will be used to pay expenses associated with construction related damage to roads owned by the Association, for damage to the Association common areas resulting from new construction, and for the restoration of Association property. Damage to Association property (including common areas, utility easements and road easements) and neighboring properties that occurs after completion of the Owner's construction project is the direct responsibility of the Owner and will not be repaired and/or cleaned up utilizing moneys from the Construction Impact Payment. Some examples of damage following the completion of a construction project include but are not limited to (1) damage from water runoff due to drainage problems created by the construction project; (2) damage from frozen and/or broken water lines installed as part of the construction project; (3) damage from fallen or otherwise faulty retaining walls built during the construction project.

- (2) **Construction Project Fines:** The Board may withdraw moneys held in the Construction Bond equal to the amount of any fines assessed by the Board against the Owner for non-compliance with the Association's Governing Documents or Construction Project Contract. Funds from the Construction Bond may be withdrawn by the Board to pay fines assessed to the Owner in the event the Owner, developer, architect, contractor, sub-contractor or any workers should violate construction project/building requirements contained in Addenda "B" or "C".
- (3) **Architectural Committee Review Fee:** An Architectural Committee Review Fee may be assessed to the owner in the event an outside architect, structural engineer or other specializing consultant is utilized by the Architectural Committee.
- (g) **Approval / Disapproval of Plans.** Upon completion of all of the Owner's requirements, the Architectural Committee shall notify the applicable Owner or Owner's representative 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 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 and the Architectural Committee and/or Board will issue an approval sign-off on 2 sets of plans. One set will be retained by the Architectural Committee for the duration of the construction project. The other set will be returned to the Owner. During all phases of the Construction project, the Architectural Committee and the Board may conduct on-site inspections. The Architectural Committee or the Board will notify the Owner of violations if and when they occur or are discovered. 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. Failure of the Board to notify an Owner of a violation shall not be grounds for an Owner to claim damages against the Board, the Committee, or the Association. Owners are responsible to complete all construction in conformity with the plans approved by the Association, the Board or the Committee.

### 7.3 Meeting # 3: Project Completion Inspection and Final Approval

- (a) The final inspection by the Architectural Committee and/or Chairperson shall be conducted at such time as the Owner notifies the Committee that the construction project is completed.

- (b) The completed construction project, home and/or structure/s will be examined for compliance to the Timphaven Governing Documents and Construction Project Contract.
  - (c) Upon completion of the construction project and upon approval following final inspection by the Architectural Committee, any remaining Construction Bond moneys will be returned to the Owner within 14 calendar days of the Architectural Committee's final approval.
  
- 8. **Construction Commencement.** The Owner may not commence construction until the Construction Bond has been 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 two building seasons (approximately eighteen (18) months) from start to finish. "Start" shall be the instant any foliage is cut or removed in anticipation or preparation of the landscaping or construction to be begin. All building debris, excavation, dirt, etc., associated with the building process shall be removed within the eighteen (18) 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 Board 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. Periodic inspections will be conducted by the Architectural Committee and the Board throughout the construction process.
  
- 9. **Architectural Plan Changes:**
  - 9.1 No changes in previously approved plans or materials will be allowed without written re-approval by the Architectural Committee.
  - 9.2 No work shall be undertaken (other than maintenance and repair) which would result in changes to the exterior appearance without prior written approval of the Architectural Committee.
  - 9.3 An owner who makes unapproved changes shall be fined by the Board, which fine shall be drawn from the Owner's Construction Bond.
  
- 10. **Stop Work Order.**
  - 10.1 If the Architectural Committee determines during the course of construction that the Owner has not complied with the Governing Documents and Construction Project Contract, the Board may issue a stop work order thereby withdrawing approval for the Owner to continue with construction. If the Owner contests the stop work order, the Owner and the Association shall proceed to address their differences according

to the procedures set forth in the dispute resolution provisions of the Restated Declaration. The burden of proof shall be on the Owner to demonstrate that the Owner has complied with the requirements set forth in the Governing Documents and the Construction Project Contract.

- 10.2 Should the Owner ignore the Stop Work Order and continue with construction in violation thereof, the Association shall be entitled to obtain a preliminary injunction and temporary restraining order from the Utah County District Court. The burden of proof shall be on the Owner to demonstrate that the Owner has complied with the requirements set forth in the Governing Documents and the Construction Project Contract. The Owner shall be responsible to pay the Association's attorney fees incurred in seeking a preliminary injunction and temporary restraining order.
  - 10.3 In addition to the remedies in the previous paragraphs, should the Owner ignore the Stop Work Order and continue with construction in violation thereof, the Association shall be entitled to liquidated damages \$200 per day, which amount the Board has determined is a fair and reasonable approximation of the actual damages the Association members will collectively suffer in consequence of an Owner failing to abide by the Governing Documents and disregarding the authority of the Board in issuing a Stop Work Order in reliance on the agreement made by the Owner with the Association to comply with the Governing Documents and Construction Project Contract.
  - 10.4 If construction is halted due to project non-conformance, work may not be resumed until approval is granted in writing by the Architectural Committee.
- 11. Architectural Committee and HOA Board Liability.**
- 11.1 The Architectural Committee members and the Board members shall not be personally liable for damages to any person submitting any architectural plans for approval, or to any Owner or Owners of Lots within the Association, by reason of any action, failure to act, approval, disapproval or failure to approve or disapprove with regard to such architectural plans.
  - 11.2 Any person acquiring the title to any Property in the Association or any person submitting plans to the Architectural Committee for approval, by doing so shall be deemed to have agreed and covenanted that they will not bring any action or suit to recover damages against the Architectural Committee, its members as individuals, or its advisors, employees or agents who have acted in good faith and are not guilty of gross negligence.
  - 11.3 The Architectural Committee does not review or approve plans and specifications for structural engineering design, nor for safety from geological hazards. Owners shall rely solely on their own independent contractors (engineers, architects, etc.) to determine the safety and soundness of the structure they build and any geological

concerns associated with building within Timphaven. Members of the Architectural Committee, the Association and its Members, and the Board, have no expertise in any areas associated with construction of a mountain home and may not be relied upon for advice and are not liable for any defect in any structure constructed from an Owner's plans and specifications.

12. **Variances.**

12.1 The Architectural Committee, subject to the approval of the Board, may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Addendum "B" or by Addendum "C", but only if such variance is necessary 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 or Members of the Association, and shall not mitigate against the general intent and purpose of Governing Documents.

12.2 Written requests for specific variances to provisions of this Article will also be considered by the Architectural Committee for review. It will be the obligation of the Applicant to establish reasonable or unusual and distinct hardship(s) which may support variance to the standards set forth in the Governing Documents. All variances must first be approved by the Architectural Committee and then by the Board on such terms and conditions as it shall require. Each Architectural Committee member voting to approve a variance shall sign an approval for variance, which approval shall be kept with the approved copy of the plans and as a part of the Architectural Committee's permanent files.

13. **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 any nonconforming or unapproved improvements, the Committee 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 Owner and Lot upon which such improvements were commenced or constructed.

14. **Applicant's Right of Appeal of a Disapproval or Conditional Approval.** In the event the Architectural Committee shall disapprove any architectural plans, the Owner submitting such architectural plans may appeal the Committee's denial, in writing, to the Board. The matter will be placed on the agenda of the next scheduled meeting of the Board. In the event the Board upholds the Committee's decision and the Owner desires to appeal the Board's

decision, the Owner shall provide written notice of appeal to the Board and the matter will be placed on the agenda of the next annual or special meeting of the Members of the Association. The affirmative vote of at least two-thirds (2/3) of the membership present in person or by proxy shall be required to overturn the decision of the Architectural Committee and the Board.

15. **Written Records.** The Architectural Committee shall keep and safeguard complete written records of all applications for approval and/or changes after construction has begun, submitted to it (including one set of all preliminary sketches and all architectural plans so submitted) and of all actions of approval or disapproval and all other actions taken by it under the provisions of this instrument, which records shall be maintained for a minimum of five (5) years after approval or disapproval.

## ADDENDUM "C"

### ARCHITECTURAL STANDARDS

Any property owner planning to undertake any building project, including additions and exterior renovations, on any property located within the Timphaven HOA is required to supply the architect, draftsman, contractor, and site construction supervisor with a copy of this Addendum "C" prior to the onset of any building project.

#### 1.1 Design and Layout Considerations:

- A. Building projects should incorporate materials, colors, and architectural styles in harmony with the mountain environment.
- B. Special considerations.
  - (i) Grades.
  - (ii) Trees.
  - (iii) Views.
  - (iv) Neighboring sites, house locations, existing and planned setbacks.
  - (v) Overall landscape.

#### 1.2 Building Size:

- A. Dwelling sizes, including garages will be limited to not more than twenty percent (20%) of total property square footage; however, no Dwelling (including garage/s) shall exceed nine thousand (9,000) square feet regardless of property size.
- B. No more than twenty percent (20%) of the total area of any Lot may be permanently removed from its natural state and covered by dwelling and or other structures, including all rooflines, provided, however, that decks shall not be considered for purposes of this 20% requirement.
- C. No dwelling or other structure, including driveway/s, shall exceed in aggregate square footage (inclusive of garages and other adjoining buildings and decks) thirty percent (30%) of total Lot acreage.
- D. No dwelling (including garage/s) shall exceed nine thousand (9,000) square feet in size on any one Lot or combination of Lots.

#### 1.3 Building Location:

- A. Each owner shall stake his Lot on all four corners to identify the Lot boundaries.
- B. The foundation walls, the edge of roof lines, and the decks of all dwellings and structures on any building lot shall not be located nearer to the side or rear property lines than as specified by Utah County Building Code, and may not be located nearer to the front property line than thirty-five feet (35') from the center line of any currently existing road or travel easement.



- C. The edge of the overhang of the roofline will be the primary marker used to measure the distance from a building or structure to the property line.

#### 1.4 Building Height:

- A. No Lot shall have a dwelling or other structure that exceeds thirty feet (30') in height as measured in accordance the Utah County Building Code. Chimneys, flag poles and similar structures not used for human occupancy are excluded for purposes of calculating the height of a structure.

#### 1.5 Exterior Walls:

- A. Materials encouraged (must be fire resistant) include:
  - (i) Logs (with a minimum of 8 inch thickness)
  - (ii) Native stone
  - (iii) Stucco ( exterior walls should contain no more than 50%)
  - (iv) Exposed patterned concrete
  - (v) Natural wood siding (that meets requirements of the Utah County Fire Marshall for fire resistant sealer and 1 hour fire barrier.
- B. Prohibited materials include:
  - (i) No natural wood siding is permitted without fire resistant sealer and 1 hour fire barrier.
  - (ii) No vinyl and aluminum siding shall be permitted.
- C. Foundations:
  - (i) Exposed concrete over three (3) feet in height is required to be faced with stone natural, cultured or stone aggregate), or finished with other materials approved by the Committee.
  - (ii) Preferred facing for exposed concrete is stone or river rock veneer.
  - (iii) Architectural patterned concrete may be used when integrated into the total design.
- D. Finishes:
  - (i) Transparent or semi-transparent finishes and earth tones are required on wood surfaces. Transparent finishes are preferred.
  - (ii) Bright contrasting finishes are not recommended.
  - (iii) Any artwork applied to the exterior walls must be approved in advance by the Board.

#### 1.6 Roofs:

- A. Design shall be complimentary to existing architecture.
  - (i) No roofline shall extend within 14 feet of the side or rear property lines, or within 35 feet the front property line.

- B. Roof materials allowed must be fire resistant and muted earth tone in color. Acceptable materials include:
  - (i) Non-reflective metal.
  - (ii) Sod.
  - (iii) Stone finish.
  - (iv) Synthetic or manufactured shingles. Asphalt shingles must be approved for style and color.

#### **1.7 Windows:**

- A. Insulated glass windows are required by state and local codes.
- B. Wood window frames are recommended.
- C. Metal or vinyl window frames with natural colors may be considered.
- D. Mirrored glass is not acceptable.
- E. Low-E window systems are encouraged.

#### **1.8 Exterior Doors (including garage doors):**

- A. Solid core wood, plank or insulated metal are acceptable for exterior doors.

#### **1.9 Energy Efficiency/Solar Design:**

- A. Passive solar design considerations are encouraged whenever possible.
- B. Active solar applications may be approved if panels are an integral part of architectural design and inoffensive from neighboring views.
- C. Energy saving features are encouraged, such as high density, high R-value, or other wall and ceiling insulators.
- D. High efficiency furnaces and hot water heaters are recommended.

#### **1.10 Skylight Recommendations:**

- A. Only flat glass skylights are recommended on sloped roofs.
- B. Bubble or gable skylights are discouraged because of problems with snow and ice movement.

#### **1.11 Exposed Metal, Chimney, Vents:**

- A. All exposed metals, such as fascias, gravel stops, flashing, wall vents, roof vents, metal enclosures, and chimneys shall be painted an approved color. Inconspicuous metal smoke stacks and roof flashing may be exempted.
- B. Spark screens are mandatory on all chimneys. Chimneys or stacks should not be placed in proximity of existing trees.

**1.12 Site Development Standards:**

- A. Lot setbacks will be fifteen (15) feet for the sides and backyard and thirty (30) feet for the front yard.
- B. Fences, wall, and barrier devices may be used for privacy and screening purposes but should be incorporated into the total design. The Architectural Committee will review their design, appropriateness, size and construction in relation to the proposed residence and neighboring Lots.
- C. Garages and carports must be integrated with the home design. A minimum of two (2) permanent parking spaces must be provided on the site. The Architectural Committee may grant an exception to these parking requirements if parking cannot be provided on the Lot due to physical constraints of the Lot. Any use of road easement property must be approved by the Architectural Committee or HOA Board.
- D. Retaining walls: For sites requiring retaining walls, these should be built of:
  - (i) Native stone.
  - (ii) Patterned concrete or pre-cast concrete units, and hill holding blocks.
  - (iii) Railroad ties.
  - (iv) Treated wood timber.
  - (v) Other materials harmonious to the area and approved by the Committee.

**1.13 Land Use and Building Type:**

- A. Each Owner shall stake his Lot on all four corners to identify the Lot boundaries.
- B. 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 one or more vehicles (i.e., not less than twenty-two by twenty-two (22' x 22') without the approval of the Architectural Committee. Any deviations from this requirement must be approved in writing by the Architectural Committee.
- C. 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.
- D. No building shall exceed nine thousand (9,000) square feet in size on any one Lot or combination of Lots.

**1.14 Tree Conservation, Landscaping, and Re-vegetation:**

It is the Association's main intent to retain and preserve the unique natural ecological conditions of Sundance by protecting the indigenous plant life before, during and after construction. Improvements should be located on the site where they least alter the natural terrain and tree cover of the site. Trees adjacent to a construction area should be protected (with boundary tape, hay bales, or by similar means) during the construction period, and storage of any building materials should be located in areas that will not damage indigenous

plants. Owner shall cut no trees, disturb tree roots for trenching, or remove soil or rocks from the site before receiving written permission from the Architectural Committee.

**A. Tree Removal**

- (i) After the preliminary plan has been approved, the exact location of the proposed house or structure shall be staked with the corners of the major components of the house designated. Strings shall be connected to these stakes so that the area impacted can be evaluated.
- (ii) Trees to be removed from the space occupied by the house and adjacent area, driveways, parking, septic and propane tanks, shall be tagged.

**B. Tree Removal and Replacement Standards**

- (i) The Owner or Contractor who damages trees, shrubs, or groundcover outside the stringed area shall be required to replace such plants or trees by replanting of same species and type. Any evergreen and aspen trees removed without authorization shall be replaced by two trees; 8-foot minimum for evergreen trees and 12 foot minimum for aspen trees. Coniferous trees (trees with cones) shall be replaced by two (2) similar coniferous trees at least twelve-feet (12) in height at the time of planting. Tree replacement and the number of trees required shall be determined by the Architectural Committee. All trees cut down for construction shall be promptly removed to prevent bark beetle infestation. Any fallen, dead, beetle, or mistletoe infected trees shall be removed from the site.
- (ii) All diseased trees on the Property should be removed.

**C. Penalty**

- (i) Any person violating any of the provisions of this section shall be required to pay a maximum penalty of five hundred dollars (\$500) per individual tree and a minimum payment of fifty dollars (\$50) per individual tree removed improperly.

**1.15 Driveways:**

**A. No driveway may be situated on any Lot(s) other than:**

- (i) If presently cut, at the location of such cuts; or
- (ii) If not presently cut, at locations approved by the Architectural Committee so as to combine, shorten and/or minimize driveways.

**B. Driveways shall be a maximum of twelve (12) feet wide and extend from approved access road to the Property. Driveways will be constructed of road base, crushed gravel or asphalt and be designed so as not to impede natural run-off. Driveways will be staked every ten (10) feet for architectural review and during construction.**

**C. The only approved access during the construction of a home and thereafter will be over the approved driveway for the Lot. This includes all construction related machinery, excavation equipment and cranes. This is intended to reduce tree and vegetation damage and compaction of soil.**

**1.16 Accessory Structures and Facilities.** Patio structures, trellises, swimming pools, sunshades, gazebos, tennis courts, greenhouses, 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. All pools must be fenced in strict compliance with local ordinances. All accessory structures and facilities require the prior written approval of the Architectural Committee.

- A. Swimming pools, spas, fountains, and game courts 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.
- B. Temporary shelters, and metal storage units are not acceptable.

**1.17 Landscaping.** Use of landscaping materials for hedges and retaining walls 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.

**1.18 Fuel Storage** Refer to Addendum "B" of the Timphaven Restated Declaration.

**1.19 Natural Damage:**

- A. No Property Owner or contractor shall interfere with or redirect the natural course of any drainage and run-off or construct any improvement, place any landscaping or create any condition which shall alter the drainage pattern or run-off from its natural flow into or across the land of another, except to the extent such alteration in the drainage pattern or run-off is approved in writing by the Architectural Committee and any other public authorities having jurisdiction.

**1.20 Outdoor Lighting:**

- A. Lighting of parking areas or walkways that is necessary for safety purposes should be installed in a manner which enhances the overall appearance of the Owner's property, but which will not be disturbing to neighbors, pedestrians or motorists. In general, floodlights are discouraged unless required in a particular circumstance and used with proper shading device. No lights shall be allowed on any site which are unreasonably bright or cause unreasonable glare. Upward lighting of structures or landscaping is discouraged.

**1.21 Job Site Maintenance & Nuisance Reduction**

- A. Cleanliness of the job site will be inspected during construction. The owner is responsible for any trash or construction related debris, including dirt and gravel left

by contractors and employees on association roads and common areas. Dumpsters are to be emptied prior to overfilling.

- B. Concrete trucks must be cleaned only on the job site at a designated spot.
- C. Construction work and delivery truck hours are to be from 7:30 a.m. to 7:00 p.m., Monday through Friday; 8:00 a.m. to 5:00 p.m. on Saturdays. No construction or delivery activity is to take place on Sundays.
- D. No music is to be played from vehicles or other external sources that are outside the house under construction. If music is played indoors, it must not be so loud that it can be heard by adjacent home owners in the neighborhood.
- E. Construction vehicles must be equipped with four-wheel drive or appropriate traction devices whenever snow or ice is present on Association roads. Vehicles violating these rules may be impounded or cited.
- F. Construction vehicles, including delivery trucks, cement trucks, dump trucks, backhoe tractor-trailers, and any similar construction equipment must be parked on the property designated as the job site. In the event that additional parking or loading/unloading space is *temporarily* required, vehicles and/or equipment must be parked far enough off of the road to allow private and emergency vehicles to pass by. Vehicles which obstruct roadways are subject to citations by the Sheriff's Office and fines by the Timphaven Home Owner's Association.

#### 1.22 Miscellaneous Notes:

- A. High efficiency furnaces and water heaters are required to reduce the number of fuel tanks in the area.
- B. Frost-free hydrants will be installed a short distance from the house for yard maintenance and fire protection during all stages of construction. Hoses must also be available on the job site for fire protection. All new construction requires fire sprinklers conforming with the Urban Wild land Interface Rules, Section 9-6-5.
- C. Structural snow loads should meet or surpass the standards for site elevation, historical snow depths, and seismic zone
- D. Special care should be taken on septic field installations. Hand digging should be done when necessary. Tanks and drains must not be placed on Association easements.
- E. The United States Forest Service will assist any Lot Owner in appraising trees for health, beetles, disease, feeding, etc.
- F. Excessively heavy or large construction excavation equipment will not be permitted due to possible destruction of the road and road bed.
- G. No vehicles with steel treads shall be driven on Association Roads without prior written approval from the Architectural Committee and the Road and Facilities Committee, which committees shall be responsible for the protection of these roads.

**EXHIBIT "D"**  
**TIMHAVEN**  
**HOMEOWNERS ASSOCIATION**

**COMMUNITY RULES AUTHORIZING FINES**

**1. FINES**

- 1.1 Fines; Authorization.** The Timhaven Board of Directors ("Board") is authorized to assess a fine against lot owners who violate provisions in the association declaration, the bylaws, or the association rules and regulations. The assessment of a fine shall be in accordance with the provisions of these Community Rules, and the rules and regulations adopted by the Board.
- 1.2 Written Notice of Violation.** Before assessing a fine, the Board must give a written notice of the violation to the lot owner of the violation and inform the lot owner that a fine will be imposed if the violation is not cured within the time provided in the written notice. The written notice shall contain a description or brief summary of the provision, bylaw, rule or regulation that has been violated and a description of the manner in which the bylaw, rule or regulation has been violated. If a violation is temporarily cured or stopped, but is repeated by the same lot owner within 90 days of the date a written notice of violation is first served on the lot owner, the violation shall be deemed to be a continuing violation and the Board shall not be required to serve another notice of violation upon the lot owner but may rely upon the notice provided in the first written notice.
- 1.3 Time to Cure.** In all instances, the violation must be cured within 48 hours of the written notice being delivered to the lot owner or the lot owner's agent, unless such time period is extended by the Board for good cause. The member of the Board or their agent that serves the written notice of violation on the lot owner shall write on the notice of violation the date and time the notice of violation was served on the lot owner and the date and time by which the violation must be cured. If a lot owner repeats the violation more than 48 hours after receiving the written notice of violation but less than 90 days after receiving the notice, the lot owner shall be deemed to have not timely cured the violation.
- 1.4 Fine.** If the violation is fully and completely cured within the time provided in the written notice of violation, and is not repeated within 90 days of the time the written notice is first served on the lot owner, no fine may be assessed by the Board. If the violation is not fully cured within the time provided, the Board shall, after confirming that the violation complained of has not been fully cured, impose a fine as provided in the CC&Rs, bylaws, or the rules and regulations. If the same violation is repeated more than 48 hours but less than 90 days after the written notice of violation is first given, the Board shall impose a fine as provided in the CC&Rs, or the rules and regulations. The lot owner shall receive a written notice of fine from the Board informing the lot owner of the amount of the fine imposed.

- 1.5 **Manner of Providing Notice of Violation and Fine.** The notice of a violation of a bylaw or the rules and regulations of the association and the notice of a fine imposed by the Board may be provided to the lot owner in any one or more of the following ways:
- 1.5(a) Delivering a copy to the lot owner personally; or
  - 1.5(b) Sending a copy through certified or registered mail, addressed to the lot owner at his or her place of residence, in which case an additional 48 hours shall be allowed to cure the violation; or
  - 1.5(c) Doing both of the following: (1) Leaving a copy with a person of suitable age and discretion at the lot owners lot; and (2) Mailing a copy to the lot owner at the lot owner's regular mailing address; or
  - 1.5(d) Affixing a copy in a conspicuous place on the lot since a person of suitable age or discretion could not be found; or
  - 1.5(e) If the person committing the violation is a tenant of the lot owner, by (1) personally delivering a copy to the tenant living at the lot or affixing a copy in a conspicuous place on the lot if a person of suitable age or discretion could not be found, and by (2) mailing a copy to the lot owner at the address provided by the lot owner to the association.
- 1.6 **Non Lot Owner Occupied Lots: Renters & Guests.** If cases where the lot is not occupied by the lot owner and the violation of the bylaw or rules and regulations is committed by a guest or resident of the lot, the lot owner shall be responsible for the failure of the resident to cure violations of the bylaws or rules and regulations. For purposes of the lease between the lot owner and the resident of the lot, the provisions of these Community Rules shall be incorporated by reference into the terms of the lease and the lot owner may collect from the resident of the lot any fines the lot owner becomes obligated to pay by virtue of the resident's actions. The lot owner shall be responsible for bringing a separate action to collect any such fines from the lot owner's tenant. Residents (defined herein as renters, tenants, guests of lot owners or renters, and any person who temporarily or permanently lives in a lot, but excluding lot owners), are subject to the bylaws and rules and regulations adopted by the association. Lot owners are ultimately responsible for the activities of residents who reside in, visit, or in any manner use their lot and the common area. Any fine assessed against a resident will be the responsibility of the lot owner of the lot in which the resident resides or is a guest. Because residents are subject to the provisions of the bylaws and rules and regulations, residents are also subject to fines in the same manner as a lot owner. Any fine assessed against a resident may be collected by the lot owner from the resident. If a resident violates a bylaw or rule or regulation, both the resident and the lot owner shall be served a notice of violation as provided above. It shall be the responsibility of the lot owner to see that the resident cures the violation within the time allotted. Failure of the lot owner to have the resident timely cure the violation shall subject the lot owner to the fine as provided herein as if the lot owner committed the violation.



- 1.7 **Board Action.** Any action by the Board involving a notice of violation or a notice of fine may be taken by any officer of the Board if so authorized or ratified by a quorum of the Board, consisting of 50% or more of the Board present at a meeting either in person or by telephone conference, or if not present at a meeting, members consenting to the action after conferring with other members of the Board.
- 1.8 **Violations for Which a Fine May be Assessed.** A fine may be assessed for the violation of a provision in the CC&Rs, the Declaration or bylaws, the association rules or regulations, or for a rule listed on Exhibit "D-1", which is attached and incorporated by this reference. The list of violations of a rule or regulations listed on Exhibit D-1 may be modified by the Board pursuant to their power to enact rules governing conduct within a project as contained in the CC&Rs. Only those violations listed on Exhibit D-1 and those violations of rules adopted by the Board are the offenses which are subject to a fine. Exhibit D-1 may be used to incorporate provisions in the Declaration, bylaws, or the rules and regulations for which a violation may be assessed.
- 1.9 **Continuous Violations.** Each day (24 hour period) during which a violation of the declaration, the bylaws or the rules and regulations of the association, or the rules listed on Exhibit D-1, continues after the time period expires during which the lot owner is required to cure the violation, constitutes a separate violation and is subject to a fine in the amount listed in Exhibit D-1. The violation of a provision in the declaration, the bylaws, a rule or regulation, or a provision listed on Exhibit D-1, which is temporarily cured within the time period required in the notice of violation, but which is violated again within 90 days of the date the original notice of violation was served, is deemed to be a continuous violation for which another notice of violation is not required to be served.
- 1.10 **Amount of Fines.** The amount of a fine for a violation of a provision in the CC&Rs, the Declaration, the rules and regulations, or the provisions listed on Exhibit D-1, shall be in the amount listed on Exhibit D-1, but in no case shall a single fine exceed \$500.00. A cumulative fine, which is a fine for a violation that is not timely cured or a fine that is repeatedly assessed due to repeated violations for which a notice of violation has previously been served, may not exceed \$500.00 per month.
- 1.11 **Late Fees.** Fines not paid within 10 days shall accrue interest at the rate of 1% per month and a late fee of \$25.00. An additional late fee shall be assessed for each and every 30 day period the fine remains unpaid after it is due. No interest or late fees may accrue until 10 days after a hearing (if requested by the lot owner) has been conducted and a final decision has been rendered by the Board.
- 1.12 **Protesting the Fine.** A lot owner who is assessed a fine may request an informal hearing to protest or dispute the fine within 30 days from the date the fine is assessed (which is the date written on the notice of fine). The lot owner protesting the fine shall request the informal hearing by delivering a written request to any member of the Board stating the grounds for the protest or dispute and setting forth in detail the following:
- 1.12(a) the grounds for the protest, including any unusual circumstances justifying a

reduction in the standard fine;

1.12(b) the facts relied upon by the protesting lot owner with respect to the violation or non-violation of the bylaw, rules or regulations;

1.12(c) the amount of the fine the lot owner claims should be paid and the reasons supporting that claim; and

1.12(d) any errors made by the Board in calculating, assessing, or collecting the fine.

1.13 **Informal Hearing.** Within 21 days of receiving the written request for hearing, the Board shall schedule an informal hearing at which time the requesting lot owner will be given an opportunity to present evidence and witnesses supporting the lot owners position. No formal rules of evidence will be required, and the Board can receive the evidence submitted by the requesting lot owner and determine the probative value of such evidence. If it chooses and if it would be of benefit to the requesting lot owner, the Board may also produce evidence supporting its decision to fine the lot owner. However, the intent of the hearing is listen to the violating lot owners explanations and not to have a trial. The Board may terminate the hearing at any time if any individual present becomes unruly, inconsiderate or rude.

1.14 **Decision of the Board.** The Board may, after the requesting lot owner has had the opportunity at the hearing to present the evidence desired, may either:

1.14(a) leave the amount of the fine as originally stated;

1.14(b) reduce the fine to an amount agreed upon by a majority of the Board present at the hearing;

1.14(c) reduce the fine to an amount agreed to by the offending lot owner with the agreement that the offending lot owner will pay the fine within 10 days and not appeal the fine in district court;

1.14(d) suspend all or a portion of the fine conditioned on the lot owner not repeating the violation for 180 days; or

1.14(e) forgive the fine.

The Board shall render its written decision no later than ten (10) days after the date of the hearing.

1.15 **Appeals.** A lot owner may appeal a fine by initiating a civil action within 180 days after:

1.15(a) a hearing has been held and a final decision has been rendered by the Board, or

1.15(b) the time to request an informal hearing has expired without the lot owner making

such a request.

- 1.16 **Lien.** A fine assessed against an Owner that remains unpaid after the time for appeal has expired becomes a lien against the lot owner's interest in the property in accordance with the same standards as a lien for the nonpayment of common expenses under U.C.A. § 57-8a-203.
- 1.17 **Promulgation of Additional Rules and Fines.** The Board is authorized to adopt and to amend the administrative rules and regulations as may be necessary or desirable to insure the property is maintained and used in a manner consistent with the interests of the lot owners, to protect and enhance the quality of life in the association, to protect the property values of the lots, to ensure a quality and enjoyable lifestyle, and to respect the rights and privileges of all residents to be free from the annoyance, disturbance and nuisance of others. The method by which the Board may adopt new rules shall be as follows:
- 1.17(a) New rules shall be adopted at a regular or special meeting of the Board. The rule shall be in writing and voted on and approved by a majority of the members of the Board. If the violation of the new rule shall have a fine associated with it, the amount of the fine shall be stated in the rule and included in Exhibit D-1.
- 1.17(b) Prior to the new rule becoming enforceable, the Board shall cause to be delivered, personally or by regular U.S. mail, a copy of the new rule to each lot owner. If a lot owner is not living in his lot, the Board shall cause to be posted on the door of the lot owner a copy of the new rule. The new rule shall become enforceable five (5) days from the day it is mailed to each lot owner or posted on the door of an absentee lot owner.
- 1.17(c) Rules adopted in this manner shall deal only with the health, safety or welfare of residents or property. Rules adopted by the Board may also be used to clarify provisions in the declaration, bylaws, or rules and regulations, or to change the amount of a fine associated with the violation of the rule.
- 1.17(d) Rules adopted by the Board shall have the same force and effect as rules contained in the declaration, the bylaws, or other administrative rules and regulations adopted by the association, including the power to collect fines from those who violate these rules.
- 1.18 **SEVERABILITY.** If any phrase contained in these Community Rules or provision of any paragraph, sentence, clause, phrase, or word, or the application thereof, in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of these Community Rules or the phrase or paragraph in which it is contained, and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

**EFFECTIVE DATE**

These Community Rules shall take effect five days after distribution to owners of lots at Timphaven.

**CERTIFICATION**

It is hereby certified that the Timphaven Owners Association Board of Directors voted to adopt these Community Rules at a regular meeting of the Board.

IN WITNESS WHEREOF, this \_\_\_\_ day of \_\_\_\_\_, 2010.

TIMPHAVEN HOMEOWNERS ASSOCIATION

By \_\_\_\_\_  
President

## EXHIBIT "D-1"

## AMOUNT OF FINE\*

1ST Offense	2ND Offense within 90 days	3RD or more Offense within 90 days	<b>RULE</b>  (the following activities are prohibited)
\$25	\$50	\$90	<ul style="list-style-type: none"> <li>• parking on the roads within Timphaven or in the common area</li> <li>• parking in restricted areas such as fire lanes</li> <li>• parking in areas other than an approved parking areas</li> <li>• parking in another's driveway or reserved parking area</li> <li>• parking in front of a garbage dumpster</li> <li>• parking in areas marked with "no parking" signs</li> <li>• parking in areas not permitted on the Association parking map</li> <li>• violation of any parking rule contained in the declaration, bylaws, or Association rules</li> <li>• parking recreational vehicles or boats on Association property for more than 14 days in any 30 day period</li> <li>• parking more cars than the maximum number permitted on Association property</li> <li>• parking unregistered or inoperable vehicles in the common area or in a driveway for more than 15 days in any 60 day period</li> <li>• parking in a manner that blocks access to other lot's driveway</li> </ul>
\$35	\$70	\$100	<ul style="list-style-type: none"> <li>• driving faster than the permitted speed</li> <li>• driving faster than conditions safely permit</li> </ul>
\$25	\$50	\$100	<ul style="list-style-type: none"> <li>• performing maintenance or mechanical work on vehicles (including motorcycles &amp; ATV's) in a driveway or in the common area</li> </ul>
\$35	\$70	\$100	<ul style="list-style-type: none"> <li>• leaving trash, garbage, or clutter on the lot, the home's driveway, patio or doorstep, or otherwise maintaining the lot, driveway, patio or doorstep in an unsightly, unclean, or unsanitary condition</li> <li>• obstructing the common area in such a manner as to restrict ingress or egress from the lots</li> </ul>
\$50	\$100	\$150	<ul style="list-style-type: none"> <li>• misuse or damage to the common area by attaching any other item to the common area, without the written permission of the Board</li> <li>• causing damage to the common area (roads, vegetation)</li> </ul>
\$10	\$20	\$30	<ul style="list-style-type: none"> <li>• placing or leaving personal belongings in the common area (vehicles, ATVs, bicycles, scooters, equipment, etc.)</li> </ul>

\$25	\$50	\$125	<ul style="list-style-type: none"> <li>• creating noise within a home or lot that can be heard in another home or lot, or in the common area, such that the noise is (1) offensive to the senses, (2) disruptive to the comfortable enjoyment and lifestyle of other residents, or (3) an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life</li> <li>• creating noise in the common area that can be heard in a home or lot such that the noise is (1) offensive to the senses, (2) disruptive to the comfortable enjoyment and lifestyle of other residents, or (3) an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life</li> </ul>
\$25	\$50	\$100	<ul style="list-style-type: none"> <li>• maintaining pets in a home or lot in violation of the Association bylaws, declaration or rules and regulations</li> <li>• failing to clean up after pets that have made a mess in the common area</li> <li>• allowing pets in the common area without a leash</li> <li>• maintaining a pet in lot that can be heard in another lot such that the sound or smell created by the pet is (1) offensive to the senses, (2) disruptive to the comfortable enjoyment and lifestyle of other residents, or (3) an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life</li> </ul>
\$100	\$250	\$500	<ul style="list-style-type: none"> <li>• performing any construction without complying with the requirements of Addendum B and Addendum C of the Restated Declaration or without written authorization from the Board or Architectural Committee</li> </ul>
\$25	\$50	\$100	<ul style="list-style-type: none"> <li>• operating a business in a home without a business license or in violation of the county ordinances, the Association bylaws, Restated Declaration, or rules and regulations</li> </ul>
\$25	\$50	\$90	<ul style="list-style-type: none"> <li>• failing to maintain window coverings (failure to replace broken blinds, torn drapes or other such window coverings). There shall be no blankets, newspapers or bed sheets used for window coverings.</li> </ul>
\$35	\$65	\$125	<ul style="list-style-type: none"> <li>• leasing a home in violation of the Association leasing policy as set forth in the Restated Declaration or by failing to require tenants to comply with Association rules</li> </ul>

\*The cumulative fine for a continuing violation may not exceed \$1,000.00 per month.

**CONSTRUCTION PROJECT CONTRACT  
FOR  
TIMPHAVEN HOMES**

("Owner") holds legal title to lot \_\_\_\_\_ in that certain real property located within Utah County, State of Utah, more particularly described as Timphaven Homes, PLATS 1-A, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12, which property is governed by a Restated Declaration of Protective Covenants, Conditions and Restrictions For Timphaven Homes ("Restated Declaration").

Owner has declared or made manifest intentions to improve the Lot by building, remodeling, or otherwise changing the existing condition or features of the property (the "Project").

Pursuant to the provisions of the Restated Declaration, Owner hereby states and agrees that the Project shall be completed and the property improved in compliance with and subject to the provisions of the Restated Declaration and the exhibits and addenda attached thereto, which are hereby declared, established, expressed and agreed to be in furtherance of a plan for the benefit and protection of Timphaven Homes, its desirability, value and attractiveness.

Those parts of the Restated Declaration which are of particular concern and relevance are contained in Addenda "B" and "C", titled "Architectural Committee, Design and Review" and "Architectural Standards" respectively. The Timphaven Architectural Committee, which has jurisdiction over the proposed Project, will be working with the Owner.

Owner hereby submits to the Timphaven Board, in accordance with the provisions of paragraph 7.2 of Addendum "B" to the Restated Declaration, a payment of \$\_\_\_\_\_, which is equal to 2.5% of the total cost of the proposed construction project, which funds shall be held, disbursed and refunded in accordance with the provisions of Addendum "B".

**Owner(s)**

\_\_\_\_\_

Date: \_\_\_\_\_, 201\_\_

\_\_\_\_\_

Date: \_\_\_\_\_, 201\_\_

**TIMPHAVEN HOMES INC.,**  
a Utah nonprofit corporation

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Date: \_\_\_\_\_, 201\_\_

# NOTICE OF FINE

## TIMPHAVEN

Date of this notice: \_\_\_\_\_

TO: \_\_\_\_\_  
Name of Lot Owner(s)

\_\_\_\_\_  
Address of Lot Owner(s)

The Timphaven Board hereby notifies you that as of the date of this notice and as the result of failing to cure the violation of the Association rules and regulations within the time period provided in the Notice of Violation previously given to you, the Board has assessed a fine against you in the amount of \$ \_\_\_\_\_.

Under the provisions of the Association bylaws and rules and regulations, you may request an informal hearing before the Board to protest or dispute this fine. If you desire to have a hearing, you must make a written request to the Board within 30 days from the date of this notice. Your request should be addressed to the Board and be sent or delivered to the following address:

\_\_\_\_\_  
\_\_\_\_\_

After the request is received you will be contacted personally or in writing within ten days to inform you of the date, time and place of the hearing. The hearing will be conducted in the manner and according to the standards and procedures set forth in the bylaws, a copy of which has been previously provided to all lot owners. For a nominal copying charge you may obtain an additional copy of the bylaws by contacting the association secretary. You will be provided written notice of the decision of the Board within 5 working days of the hearing.

Date this notice was delivered/mailed to lot owner: \_\_\_\_ / \_\_\_\_ / 20 \_\_\_\_

By: \_\_\_\_\_  
TIMPHAVEN BOARD



# NOTICE OF APPEAL

## TIMPHAVEN

Date of this notice: \_\_\_\_\_

TO: Timphaven BOARD:

FROM: \_\_\_\_\_

Name of Lot Owner(s)

\_\_\_\_\_  
Address of Lot Owner(s)

The above named Lot Owner(s) hereby notifies the Timphaven Board that it appeals the fine which was assessed on (date) \_\_\_\_\_ in the amount of \$ \_\_\_\_\_.

According to the provisions of the Association bylaws, rules and regulations, the above named Lot Owner is supplying the information set forth below as the basis for the appeal:

1. The grounds for the appeal: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.
2. Any unusual circumstances justifying a reduction in the standard fine: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.
3. Facts relied upon by the protesting Lot owner with respect to the violation or non-violation of the bylaw, rules or regulations: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.
4. The amount of the fine the lot owner claims should be paid and the reasons supporting that claim: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.
5. Any errors made by the Board in calculating, assessing, or collecting the fine: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

\_\_\_\_\_  
Signature

# NOTICE OF DECISION

## TIMPHAVEN

Date of this notice: \_\_\_\_\_

TO: \_\_\_\_\_  
Name of Lot Owner(s)

\_\_\_\_\_  
Address of Lot Owner(s)

The Timphaven Board hereby notifies you it has made a final decision following the informal hearing you requested to protest or dispute the fine that was assessed by the Board.

Based on the evidence and arguments presented at the hearing, the Board:

\_\_\_\_\_ Reaffirms the fine in the amount of \$ \_\_\_\_\_ as previously assessed.

\_\_\_\_\_ Reduce the fine. The modified fine amount is \$ \_\_\_\_\_.

\_\_\_\_\_ Reduce the fine to an amount agreed to by the offending lot owner with the agreement that the offending lot owner will pay the fine within 10 days and not appeal the fine in district court.

\_\_\_\_\_ Suspends all or a portion \$ \_\_\_\_\_ of the fine, conditioned on the lot owner not repeating the violation for 180 days.

\_\_\_\_\_ Cancels the fine.

This fine is due and payable to the Association within 10 days of the date of this notice. If this fine is not paid by that date it shall incur a late charge of \$ \_\_\_\_\_. There shall be added to the fine additional late charges of like amount for each and every month (30 day period) the fine remains unpaid.

Date this notice was delivered/mailed to lot owner: \_\_\_\_ / \_\_\_\_ / 20\_\_\_\_

By: \_\_\_\_\_  
TIMPHAVEN BOARD

**AMENDED AND RESTATED  
BYLAWS  
OF  
TIMPHAVEN HOMES INC.**

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**AMENDED AND RESTATED  
BYLAWS  
OF  
TIMPHAVEN HOMES INC.**

Adopted by Resolution of the  
Board of Trustees dated January 1, 2007

**ARTICLE 1: DEFINITIONS**

1.1 **Declaration.** As used herein, "Declaration" means 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, as the same may be amended from time to time, recorded in the office of the Utah County Recorder.

1.2 **Other Definitions.** Unless otherwise defined herein, all capitalized terms used herein shall have the meanings given to them in the Declaration.

**ARTICLE 2: OFFICE**

The Association is a Utah nonprofit corporation, with its registered office at 1890 North 1450 East, Provo, Utah 84604-5759.

**ARTICLE 3: VOTING**

3.1 **Voting.** Votes shall be allocated as set forth in Article III of the Declaration.

3.2 **Quorum.** Except as otherwise required by law or by the Articles, the number of Members participating in a meeting in person, by proxy or by written ballot shall constitute a quorum.

3.3 **Voting Method.** Votes may be cast in person, by proxy or by written ballot.

3.4 **Action by Proxy.** Every proxy must be executed in writing by the Member or his duly authorized attorney-in-fact. Such proxy shall be filed with the secretary of the Association before or at the time of the meeting.

3.5 **Action by Written Ballot.**

(a) Any action that may be taken at any meeting of Members may be taken without a meeting if the Association delivers a written ballot to every Member entitled to vote on the matter. Such written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval by written ballot shall be valid only when the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(b) All solicitations for votes by written ballot shall indicate the number of responses needed to meet the quorum requirements, state the percentage of approvals necessary to approve each matter other than election of directors, specify the time by which a ballot must be received by the Association in order to be counted, and be accompanied by written information sufficient to permit each Member casting the ballot to reach an informed decision on the matter.

(c) A written ballot may not be revoked.

(d) Action by written ballot has the same effect as action taken at a meeting of Members.

(e) The number of votes cast by written ballot shall constitute a quorum for action on the matter.

(f) A written ballot may also be used in connection with any meeting of Members, thereby allowing Members the choice of either voting in person or by written ballot delivered by a Member to the Association in lieu of attendance at such meeting. A valid written ballot shall be counted equally with the votes of Members in attendance at any meeting for every purpose, including satisfaction of a quorum requirement. Members participating in a meeting by written ballot shall be considered present at the meeting for all purposes.

(g) After fixing a record date for a notice of a meeting or for determining the Members entitled to take action by written ballot, the Association shall prepare a list of the names of all Members who are entitled to notice of the meeting, and to vote at the meeting or to take the action by written ballot. Such list shall show the address of each Member entitled to notice of, and to vote at, the meeting or to take such action by written ballot, and show the number of votes each member is entitled to vote at the meeting or by written ballot. If prepared in connection with a meeting of Members, the list required by this Section shall be available for inspection by any Member entitled to vote at the meeting beginning the earlier of ten (10) days before the meeting for which the list was prepared or two (2) business days after notice of the meeting is given, and continuing through the meeting, and any adjournment of the meeting, and at the Association's principal office or at a place identified in the notice of the meeting in the city where the meeting will be held. The Association shall make the list required by this Section available at the meeting. Any Member entitled to vote at the meeting or an agent or attorney of a Member entitled to vote at the meeting is entitled to inspect the list at any time during the meeting or any adjournment thereof. A Member entitled to vote at the meeting, or an agent or attorney of a Member entitled to vote at the meeting, is entitled on written demand to inspect and, subject to Sections 16-6a-1602 and 16-6a-1603 of the Utah Revised Nonprofit Corporation Act, to copy the list required by this Section during regular business hours and the period it is available for inspection; and at the Member's expense.

**3.6 Majority Vote.** At any meeting of Members, if a quorum is present, the affirmative vote of a majority of the votes represented at the meeting, in person or by proxy, shall be the act of the Members, unless the vote of a greater number is required by law, the Declaration, the Articles, or these Bylaws.

3.7 **Greater Quorum or Voting Requirements.** An amendment to the Articles or these Bylaws that adds, changes, or deletes a greater quorum or voting requirement shall meet the same quorum requirement and be adopted by the same vote required to take action under the greater of the quorum and voting requirements then in effect or proposed to be adopted.

#### ARTICLE 4: MEETINGS

4.1 **Semiannual Meetings.** Semiannual meetings of the Members shall be held each year in May and November on the first Saturday of each such month at a time designated by the Board, for the purpose of electing Trustees and for the transaction of such other business as may come before the meeting.

4.2 **Special Meetings.** Special meetings of the Members, for any purpose, unless otherwise prescribed by statute, may be called by the president or by a majority of the Trustees and shall be called by the president at the request of Members entitled to vote thirty percent (30%) or more of the total votes of all Members.

4.3 **Place of Meetings.** The Board may designate any place within Utah County, Utah, as the place for any semiannual meeting or for any special meeting called by the Board. Members may participate in meetings by any means of electronic or telephonic communication through which all Members and other participants may simultaneously hear one another during the meeting. Members who participate in a meeting by such means shall be considered present for all purposes, including the presence of a quorum.

4.4 **Notice of Meetings.** Written notice of any meeting of Members, stating the place, day, and hour of the meeting and the purpose or purposes for which the meeting is called, shall be delivered personally or by mail, fax or email to each Member entitled to vote at such meeting not less than ten nor more than fifty days before the date of the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the Member at his address as it appears in the office of the Association or in the records of the Utah County Recorder, with postage thereon prepaid. If faxed or emailed, such notice shall be deemed delivered when and if receipt is confirmed by the receiving Member. For the purpose of determining Members entitled to notice of or to vote at any meeting of Members, the Board may set a record date for such determination of Members, in accordance with the laws of the State of Utah. If requested by the Person or Persons lawfully calling such meeting, the secretary shall give notice thereof at the expense of the Association.

4.5 **Informal Action by Members.** Any action required or permitted to be taken at a meeting of Members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Members entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of the Members.



## ARTICLE 5: BOARD

5.1 **Number and Election of Trustees.** The Board shall consist of nine (9) Trustees. Subject to the terms and conditions of Sections 5.2 and 5.3 below, the Trustees shall serve staggered three-year terms, which terms shall commence at the close of the semiannual meeting at which the Trustee is elected and expire at the close of the semiannual meeting at which the Trustee's successor is elected. The Members shall elect the Trustees at the semiannual meetings held in May.

5.2 **Removal of Trustees.** A Trustee may be removed, with or without cause, by a vote of at least sixty-seven percent (67%) of the Members.

5.3 **Replacement of Trustees.**

(a) A vacancy on the Board created by the removal, resignation or death of a Trustee shall be filled by majority vote of the Board, though less than a quorum. Notwithstanding the foregoing, any vacancy on the Board created pursuant to Section 5.2 shall be filled by a majority vote of the Members.

(b) Any Trustee elected or appointed pursuant to this Section 5.3 shall hold office for the remainder of the unexpired term of the Trustee being replaced.

5.4 **Resignations; Vacancies.** Any Trustee may resign at any time by giving written notice to the president or to the secretary of the Association. Such resignation shall take effect at the time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

5.5 **Regular Meetings.** Regular meetings of the Board may be held without call or formal notice and at such times as the Board from time to time by vote may determine. Any business may be transacted at a regular meeting. The regular meeting of the Board for the election of officers and for such other business as may come before the meeting may be held without call or formal notice immediately after, and at the same place as, a semiannual meeting of Members, or any special meeting of Members at which Trustees are elected.

5.6 **Special Meetings.** Special meetings of the Board may be held at any time when called by the president, or by two or more Trustees, upon the giving of at least three (3) days' prior notice of the time and place thereof to each Trustee by fax, email or telephone or by leaving such notice with such Trustee or at such Trustee's residence or usual place of business, or, upon at least seven (7) days' notice, by mailing it prepaid and addressed to such Trustee at such Trustee's address as it appears on the books of the Association. Notices need not state the purposes of the meeting. No notice of any adjourned meeting of the Trustees shall be required.

5.7 **Place of Meetings.** The Board may designate any place within or outside the State of Utah to hold a regular meeting of the Board and any place within the State of Utah to hold a special meeting of the Board. Trustees may participate in any meeting of the Board by any means of electronic or telephonic communication through which all participants may

simultaneously hear one another during the meeting. Trustees who participate in a meeting by such means shall be considered present for all purposes, including the presence of a quorum.

5.8 **Quorum.** A majority of the number of Trustees as set by the Articles shall constitute a quorum for the transaction of business, but a lesser number may adjourn any meeting from time to time. When a quorum is present at any meeting, a majority of the Trustees in attendance shall, except where a larger number is required by law, by the Articles, or by these Bylaws, decide any question brought before such meeting.

5.9 **Waiver of Notice.** Before, at, or after any meeting of the Board, any Trustee may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Trustee at any meeting of the Board shall be a waiver of notice by such Trustee except when such Trustee attends the meeting for the express purpose of objecting to the transaction of business because the meeting is not lawfully called or convened.

5.10 **Informal Action by Trustees.** Any action required or permitted to be taken at a meeting of the Trustees may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Trustees entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of the Trustees.

## ARTICLE 6: OFFICERS AND AGENTS

6.1 **General.** The officers of the Association shall be a president (who shall be chosen from among the Trustees), one or more vice presidents, a secretary, and a treasurer. The Board may appoint such other officers, assistant officers, committees, and agents, including assistant secretaries and assistant treasurers, as it may consider necessary or advisable, who shall be chosen in such manner and hold their offices for such terms and have such authority and duties as from time to time may be determined by the Board. One person may hold any two offices, except that no person may simultaneously hold the offices of president and secretary. In all cases where the duties of any officer, agent, or employee are not prescribed by these Bylaws or by the Board, such officer, agent, or employee shall follow the orders and instructions of the president.

6.2 **Removal of Officers.** The Board may remove any officer, either with or without cause, and elect a successor at any regular meeting of the Board, or at any special meeting of the Board called for such purpose.

6.3 **Vacancies.** A vacancy in any office, however occurring, shall be filled by the Board for the unexpired portion of the term.

6.4 **President.** The president shall be the chief officer of the Association. The president shall preside at all meetings of the Association and of the Board. The president shall have the general and active control of the affairs and business of the Association and general supervision of its officers, agents, and employees. The president of the Association is designated

as the officer with the power to prepare, execute, certify, and record amendments to the Declaration and the Articles on behalf of the Association.

**6.5 Vice Presidents.** The vice presidents shall assist the president and shall perform such duties as may be assigned to them by the president or by the Board. In the absence of the president, the vice president designated by the Board or (if there be no such designation) designated in writing by the president shall have the powers and perform the duties of the president. If no such designation is made, all vice presidents may exercise such powers and perform such duties.

**6.6 Secretary.** The secretary shall:

(a) keep the minutes of the proceedings of the Members meetings and of the Board meetings;

(b) see that all notices are duly given in accordance with the provisions of these Bylaws and the Declaration and as required by law;

(c) be custodian of the corporate records and of the seal of the Association and affix the seal to all documents when authorized by the Board;

(d) maintain at the Association's principal offices a record containing the names and registered addresses of all Members, the designation of the Lot(s) owned by each Member, and, if such Lot is mortgaged, the name and address of each mortgagee; and

(e) in general, perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to it by the president or by the Board. Assistant secretaries, if any, shall have the same duties and powers, subject to supervision by the secretary.

**6.7 Treasurer.** The treasurer shall be the principal financial officer of the Association and shall have the care and custody of all funds, securities, evidences of indebtedness, and other personal property of the Association and shall deposit the same in accordance with the instructions of the Board. The treasurer shall receive and give receipts and acquittances for moneys paid in on account of the Association and shall pay out of the funds on hand all bills, payrolls, and other just debts of the Association of whatever nature upon maturity. The treasurer shall perform all other duties incident to the office of the treasurer and, upon request of the Board, shall make such reports to it as may be required at any time. The treasurer shall, if required by the Board, give the Association a bond in such sums and with such sureties as shall be satisfactory to the Board, conditioned upon the faithful performance of his duties and for the restoration to the Association of all books, papers, vouchers, money, and other property of whatever kind in his possession or under his control belonging to the Association. He shall have such other powers and perform such other duties as may be from time to time prescribed by the Board or the president. The assistant treasurers, if any, shall have the same powers and duties, subject to the supervision of the treasurer.

**ARTICLE 7: PROOF OF OWNERSHIP; REGISTRATION OF MAILING ADDRESS;  
AND LIENS**

7.1 **Proof of Ownership.** Each Person on becoming an Owner of a Lot shall furnish to the Association a photocopy or a certified copy of the recorded instrument vesting that Person with an ownership interest in the Lot. Such copy shall remain in the files of the Association. Owners who fail to satisfy this requirement shall not be deemed to be Members in good standing and shall not be entitled to vote at any meeting of Members.

7.2 **Mailing Address.** Each Member is required to register a mailing address with the Association within ten days of becoming a Member. The mailing address of each Member will be kept on file at the office of the Association. Members must notify the Association of any change in mailing address within ten days of such change. Any notice mailed to a Member's registered address or to the address on file with the Utah County Recorder shall be deemed duly delivered.

7.3 **Liens.** Any Owner who mortgages or grants a deed of trust covering his Lot shall give the Association written notice of the name and address of the mortgagee and shall file true, correct, and complete copies of the note and security instrument with the Association.

7.4 **Address of the Association.** The address of the Association shall be 361 East 1200 South, Orem, Utah 84058-6904. Such address may be changed from time to time upon written notice to all Members and all listed mortgagees.

**ARTICLE 8: SECURITY INTEREST IN MEMBERSHIP**

The Owner of a Lot shall have the right to appoint the mortgagee of the subject Lot as its true and lawful attorney-in-fact to exercise any and all rights, privileges, and powers that such Owner has as a Member. Unless otherwise expressly provided in such proxy, such proxy shall become effective when filed with the secretary of the Association. A release of the mortgage covering the subject Lot shall operate to revoke such proxy. Nothing herein contained shall be construed to relieve an Owner of its duties and obligations as a Member or to impose upon a mortgagee the duties and obligations of an Owner.

**ARTICLE 9: FISCAL YEAR**

The fiscal year of the Association shall be the calendar year.

**ARTICLE 10: AMENDMENTS**

10.1 **By Trustees.** Except as limited by law, the Articles, the Declaration, or these Bylaws, the Board shall have power to make, amend, and repeal these Bylaws at any regular meeting of the Board or at any special meeting called for that purpose at which a quorum is present. Notwithstanding the foregoing, the Board may not amend or repeal any bylaw created by the Members in such manner as to defeat or impair the object of the Members in taking such action.

10.2 **By Owners.** Except as limited by law, the Articles or the Declaration, these Bylaws may be amended or repealed by a vote of at least sixty-seven percent (67%) of the votes entitled to be cast by the Owners at any semiannual meeting or at any special meeting called for that purpose at which a quorum shall be represented.

**EXHIBIT A**  
to  
**AMENDED AND RESTATED**  
**DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR TIMPHAVERN 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