

**DECLARATION OF PROTECTIVE COVENANTS
FOR ESTATES AT BURR ORCHARDS**

This DECLARATION OF PROTECTIVE COVENANTS for THE ESTATES AT BURR ORCHARDS, (the "Declaration") is executed by IVORY HOMES, LTD., of 970 East Woodoak Lane, Salt Lake City, Utah 84117 (the "Developer"), with reference to the following:

RECITALS

A. Developer is the owner of certain real property located in Utah County, Utah described more particularly on Exhibit [A] attached hereto and incorporated herein by this reference (the "Property").

B. Developer has subdivided the Property into a residential subdivision.

C. The Property is an area of unique natural beauty, featuring distinctive terrain.

D. Developer desires to provide a general plan for the development of all of the Property and for the establishment of covenants, conditions and restrictions to enhance and protect the value and attractiveness of this uniquely attractive residential property, all in accordance with the provisions of this Declaration.

E. The development of the Property and the construction of the improvements thereon has been, or is to be, performed in accordance with the plans contained in the Record of Survey Map to be recorded concurrently herewith.

F. Developer intends to sell to various purchasers the fee title to the individual Lots contained in the subdivision.

G. The Developer desires, by filing this Declaration of Protective Covenants, to submit ESTATES AT BURR ORCHARDS and all improvements now or hereafter constructed thereon to the terms, covenants, conditions and restrictions set forth below, which shall constitute equitable servitude and shall run with the land.

COVENANTS, CONDITIONS AND RESTRICTIONS

NOW, THEREFORE, for the reasons recited above, the Developer hereby covenants, agrees and declares that the Property shall be subject to the following covenants, conditions and restrictions:

1. Definitions. The following definitions shall apply to this Declaration:

a. "Builder" shall mean an Owner, developer or contractor who obtains a

construction or occupancy permit for one or more Lots.

b. "Building" shall mean an edifice or structure designed to stand more or less permanently.

c. [Dwelling Unit] shall mean shall mean and refer to a separate physical part of a Lot intended for independent use. Mechanical equipment and appurtenances located within any one Dwelling Unit, or located without said Dwelling Unit but designated and designed to serve only that Dwelling Unit, such as appliances, electrical receptacles and outlets, air conditioning compressors, furnaces, water heaters, apparatus, systems or equipment, fixtures and the like, shall be considered part of the Dwelling Unit. All pipes, wires, conduits, or other utility lines or installations constituting a part of the Dwelling Unit or serving only the Unit, and any structural members, parts, components or any other property of any kind, including fixtures or appliances within any Dwelling Unit, shall be deemed to be part of the Unit.

d. "Lot" or "Lots" shall mean the subdivided and recorded lot or lots within Property and where the context so requires any Building or Dwelling Unit constructed thereon.

e. "Lot Number" shall mean the number and/or letter used to identify a particular Lot or Lots.

f. "Owner" or "Owners" shall mean the record owner or owners, whether one or more persons or entities, of a fee simple title to any Lot, excluding those having such interest merely as security for the performance of an obligation.

g. "Project" shall mean the Subdivision.

h. [Property] shall mean all of real property and real property interest comprising the Subdivision.

i. "Subdivision" shall mean ESTATES AT BURR ORCHARDS.

2. Residential Nature of the Project. This is a residential subdivision and only single family residences are allowed.

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

4. Right to Expand Application. The Developer shall have the right to expand the application of this Declaration to other property by written amendment to this Declaration duly recorded, and without additional Owner approval required.

5. Easements. Easements and rights of way for the installation and maintenance of the entrance, frontage, signage, public utilities and storm drain system are reserved, as set forth herein

and in the legal descriptions of the Property. Within these easements and rights of way, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in, on or about the easements and rights of way, or which may obstruct or retard the flow of water through the drainage channels in the easements and rights of way. The easement and right of way area of each Lot and all improvements within said area shall be maintained continuously by the Owner, excepting those improvements for which a public authority or utility company is expressly responsible.

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

7. Architectural Guidelines. Since the Developer has the sole right and exclusive authority to resolve all architectural issues to insure the harmony of design and quality of construction and materials throughout the Subdivision, all architectural designs, plans, specifications and construction materials must be consistent with this Declaration, reviewed and approved by the Developer in writing.

8. Landscaping. The Lot, including the front, side and rear yards, must include an underground sprinkling system and grass. These landscape improvements must be installed within nine (9) months of home occupancy.

9. Use Restrictions. Each Owner and occupant shall be entitled to the exclusive ownership and possession of his Lot, subject to the following restrictions:

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

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

c. Certain Work Prohibited. No Owner shall use or occupy or permit the Property to be used or occupied, nor do or permit anything to be done in or on the Property, in a manner which will in any way which would jeopardize the soundness or safety of the Property, reduce its value or impair any easement or hereditament, without in every such case the unanimous written consent of all the other Owners being first obtained.

d. Garbage. All rubbish, trash, refuse, waste, dust, debris and garbage shall be kept in sanitary trash receptacles, hidden from public view except for a 24 hour period on trash pick-up day.

e. Slope and Drainage Control. No structure, plant, improvement or other

material may be placed or permitted to remain, or other activities undertaken which may damage or interfere with established grading, create erosion or sliding problems, or which may change the direction or flow of drainage channels, or obstruct or retard the flow of water through the channels. The slope control area of each Lot and all improvements therein shall be maintained continuously by the Owner of the Lot, excepting those improvements for which a public authority or utility company is expressly responsible. It shall be the responsibility of the Owner to see that his Lot conforms with and continues to conform with any established grading and drainage plan that has previously been designed by the Developer.

f. Trees, Shrubs and Bushes; Maintenance of Proper Sight Distance at Intersections. All property located at or near driveways, entrances, exits, walkways, paths and street intersections or corners shall be landscaped so as to remove any obstructions and to permit safe sight.

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

h. Signs. No signs, billboards or advertising structures may be built or displayed on any Lot except for a single sign with a maximum size of two feet by three feet (2' x 3') for specific purpose of advertising the sale of a Dwelling Unit; provided, however, this requirement does not relate to the Developer, the initial builder or builders of Dwelling Units of the Subdivision or their assigns, who may use whatever signs they deem appropriate to market the Lots.

i. Firearms, Incendiary Devices and Graffiti. The use of firearms and incendiary devices, or the painting or graffiti, within the Project is prohibited. The term firearms includes but is not limited to all guns, pistols, handguns, rifles, automatic weapons, semi-automatic weapons, BB guns, pellet guns, sling shots, wrist-rockets, blow-dart guns, and other firearms of all types, regardless of size.

j. Pets. No pets, animals, livestock or poultry of any kind shall be bred in, on or about the Project. Up to two (2) domestic pets per unit are allowed. Provided, however, all pets must be properly licensed and registered (if required) with the appropriate governmental agencies, owners must pay a pet deposit, if any is required, to the Management Committee, obtain a certificate of registration from the Association, abide by all pet rules and regulations adopted by the Management Committee from time to time, and follow all applicable local ordinances. Pets may not create a nuisance. The following acts of an animal may constitute a nuisance: (1) it causes damage to the property of anyone other than its owner; (2) it causes unreasonable fouling of the air by odors; (3) it causes unsanitary conditions; (4) it defecates on any common area and the feces are not immediately cleaned up by the responsible party; (5) it barks, whines or howls, or makes other disturbing noises in an excessive, continuous or untimely fashion; (6) it molests or harasses passersby by lunging at at them or chasing passing vehicles; (7) it attacks people or other domestic animals; (8) it otherwise acts so as to bother, annoy or disturb other reasonable residents or

interferes with their right to the peaceful and quiet enjoyment of their property; or (9) by virtue of the number of pets maintained, they are offensive or dangerous to the health, welfare or safety of other residents.

k. Business Use. No commercial trade or business may be conducted in or from any Lot unless: (1) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the residence; (2) the business activity conforms to all zoning requirements for the Project; (3) the business activity does not involve persons coming onto the Project who do not reside in the Project or door-to-door solicitation of residents of the Project; and (4) the business activity is consistent with the residential character of the Project and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Project, as may be determined in the sole discretion of the Committee. The term *commercial trade or business* shall mean and refer to any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: a) such activity is engaged in full or part-time; b) such activity is intended to or does generate a profit; or c) a license is required therefor. Notwithstanding the above, the leasing of a residence shall not be considered a trade or business within the meaning of this subsection.

l. Motor Vehicles. No motor vehicle or trailer may be parked or stationed in such a manner so as to create or threaten to create a dangerous situation. No motor vehicle or trailer may be parked or stationed in such a manner so as to create an obstacle or block access to a garage, driveway, traffic lane, street or road, Building or Lot. No garage may be altered in such a manner that the number of motor vehicles which may reasonably be parked therein after the alteration is less than the number of motor vehicles that could have been reasonable parked in the garage as originally designed and constructed. Recreational, commercial or oversized motor vehicles may not be parked in the street or the front yard area, except for purposes of loading and unloading, and must be parked or stored outside the Subdivision or on a cement pad designed and constructed for that purpose in the side or rear yard areas.

m. Nuisance. Activities, behavior or a condition which constitutes a nuisance, or is a noxious, hazardous or offensive use of the Property, or threatens the security or safety of other residents of the Project are prohibited.

n. Entry Monument. The owner(s) adjacent to the Entry Monument shall maintain the monument and entry in a good, aesthetic, and attractive condition. If said owner(s) fail, refuse, or neglect to do so, then all of the owners acting as a group (hereafter, "Association") in accordance with this Declaration shall make the necessary repairs or improvements and each owner shall be billed for his pro rata share of the obligation. The amount of the common expense assessed against each lot is the debt of the owner at the time the assessment is made and is collectible as such. Suit to recover a money judgment for unpaid common expenses is maintainable by the Association without foreclosing or waiving the lien securing it. The prevailing party in the action is entitled to recover its costs of suit and reasonable attorneys fees. If any owner fails or

refuses to make any payment of the common expenses when due, that amount constitutes a lien on the interest of the owner in the property, and upon the recording of a notice of lien by the Association it is a lien upon the owner's interest in the property prior to all other liens and encumbrances, recorded or unrecorded, except: (a) tax and special assessment liens on the Lot in favor of any assessing unit or special improvement district; and (b) encumbrances on the interest of the owner recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

10. Developer's Sales Program. Anything to the contrary notwithstanding, for so long as Developer continues to own a Lot in the Subdivision the following provisions shall be deemed to be in full force and effect. No Owner or occupant shall interfere or attempt to interfere with the completion of improvements, promotion and/or sale of Lots owned by Developer or Dwelling Units constructed thereon. Developer shall have the right to maintain one (1) or more sales offices and one (1) or more model Dwelling Units at any one time. Such office and/or models may be one or more of the Dwelling Units owned by the Developer, one or more separate structures or facilities placed on the Property for the purpose of aiding Developer's sales effort, or any combination of the foregoing. Developer shall have the right to maintain a reasonable number of promotional, advertising and/or directional signs, banners or similar devices at any place or places on the Property. Developer shall have the right from time to time to locate or relocate any of its sales offices, models, or signs, banners or similar devices. Developer shall have the right to remove from the Project any signs, banners or similar devices and any separate structure or facility which was placed on the Property for the purpose of aiding Developer's sales effort. All of the rights of Developer under this Declaration may be assigned or transferred either by operation of law or through a voluntary conveyance, transfer or assignment. Any Mortgage covering all Lots or Buildings in the Project title to which is vested in Developer shall, at any given point in time and whether or not such Mortgage does so by its terms, automatically cover, encumber, and include all of the then unexercised or then unused rights, powers, authority, privileges, protections and controls which are accorded to Developer (in its capacity as Developer) herein.

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

12. Covenants to Run with Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of the Developer, all other signatories hereto, all parties who hereafter acquire any interest in a Lot, the Subdivision or the Property, and their respective grantees, transferees, heirs, devisees, personal representative, successors, and assigns. Each Owner or occupant of a Lot shall comply with, and all interests in all Lots shall be subject to, the terms of

this Declaration and the provisions of any rules, regulations, agreements, instruments, supplements, amendments, and determinations contemplated by this Declaration. By acquiring any interest in a Lot in the Project, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

13. Enforcement and Right to Recover Attorney's Fees. Should the Developer or an aggrieved Owner be required to take action to enforce or construe the Declaration or to pursue any remedy provided hereunder or by applicable law, including a claim for injunctive relief or damages, whether such remedy is pursued by filing suit or otherwise, the prevailing party shall be entitled to recover his reasonable attorney's fees, costs and expenses which may arise or accrue, regardless of whether a lawsuit is filed.


14. Limitation of Liability. This Declaration of covenants, conditions and restrictions is established for the benefit of the Property and the Owners. Any damage, loss, claim or liability which might arise due to any decision, act, or failure to act of Developer or its agents, representatives and employees shall be exempt from any civil claim or action, including an action for negligence, brought by any person owning or having an interest in any Lot.

15. Amendments. This Declaration may be amended upon the affirmative written approval of at least a majority of the Owners and shall be valid immediately upon recording of the document amending the Declaration in the office of the County Recorder of Davis County, Utah; provided, however, so long as the Developer shall own at least one (1) Lot in the Subdivision, no amendment shall be valid or enforceable without Developer's prior written consent.

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

Dated the 2nd day of November, 2001

DEVELOPER:
 IVORY HOMES, LTD.
 By: VALUE, L.C.
 Its: General Partner

By: 
 Name: Clark D. Ivory
 Title: Manager

ACKNOWLEDGEMENT

STATE OF UTAH)
)
 :SS.
)
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me the 2nd day of November, 2001, by Clark D. Ivory who is the Manager of VALUE, L.C., the General Partner of IVORY HOMES, LTD., a Utah Limited Partnership and said Clark D. Ivory duly acknowledged to me that IVORY HOMES, LTD. executed the same.

Christopher P. Gamvroulas

Notary Public

Residing at: SLC, UT

My Commission Expires: 7/20/2003

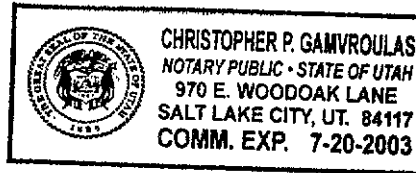


EXHIBIT "A"

Commencing at the North quarter corner of Section 35, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence South $89^{\circ} 24' 20''$ East along the Section line 1321.72 feet; thence along the arc of a 686.00 foot radius curve to the left 347.45 feet (chord bears South $33^{\circ} 10' 17''$ East, 343.74 feet); thence South $41^{\circ} 32' 57''$ West 113.62 feet; thence along the arc of a 328.00 foot radius curve to the right 104.77 feet (chord bears South $50^{\circ} 41' 59''$ West 104.32 feet); thence South $59^{\circ} 51' 00''$ West 325.58 feet; thence South $00^{\circ} 03' 34''$ East 196.14 feet; thence South $77^{\circ} 31' 00''$ West 298.54 feet; thence South $70^{\circ} 45' 00''$ West 490.73 feet; thence North $02^{\circ} 13' 20''$ West 102.84 feet; thence North $00^{\circ} 52' 20''$ West 69.55 feet; thence North $00^{\circ} 41' 00''$ West 88.59 feet; thence North $00^{\circ} 01' 09''$ West 257.56 feet; thence North $00^{\circ} 11' 35''$ West 98.38 feet; thence North $00^{\circ} 09' 49''$ West 305.30 feet; thence North $76^{\circ} 51' 56''$ West 195.02 feet; thence along the arc of a 150.00 foot radius curve to the right 48.88 feet (chord bears North $67^{\circ} 31' 52''$ West 48.66 feet); thence North $58^{\circ} 11' 47''$ West 59.49 feet; thence North $48^{\circ} 07' 38''$ West 33.17 feet to the point of beginning.