

**AMENDED AND RESTATED
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
for
QUAIL MEADOWS PLANNED UNIT DEVELOPMENT**

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this 31st day of August, 2006, by Quail Meadows at Tri-City Twin Homes Homeowners Association, Inc., a Utah Non-Profit Corporation ("Association").

RECITALS

WHEREAS, the original Declaration of Covenants, Conditions and Restrictions for Quail Meadows Planned Unit Development (the "Declaration") was recorded in the office of the Utah County Recorder on February 23, 2001 as Entry No. 16613:2201; and

WHEREAS, the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Quail Meadows Planned Unit Development was recorded in the office of the Utah County Recorder on July 18, 2002 as Entry No. 81760:2002; superseding the original Declaration; and

WHEREAS, the Association desires to amend and restate the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Quail Meadows Planned Unit Development as set forth herein; and

WHEREAS, the Association represents the owners of certain real property in Utah County, Utah, that has been developed as a planned unit development known and to be known as Quail Meadows Twin-homes Planned Unit Development; and

WHEREAS, the Association desires to provide for the preservation of values and amenities within the Development and for the maintenance of open spaces, and any other common areas or facilities to be developed as part of the Development; and to this end desires to subject the real property to the covenants, conditions, restrictions, uses, limitations, obligations, servitudes, easements, charges, liens and other provisions (herein all together called "covenants and restrictions") set forth in this Declaration, each and all of which is and are for the benefit of the real property and the current or subsequent owners thereof; and

WHEREAS, the original Declarant deemed it desirable for the efficient preservation of the values and amenities in the Development to create an association to which would be conveyed title to all of the Common Areas and to which has been delegated and assigned the powers and duties of maintaining and administering said Common Areas, administering and

enforcing the provisions of this Declaration, and disbursing the charges and assessments herein created; and

WHEREAS, the original Declarant has caused to be formed the Quail Meadows at Tri-City Twin-Homes Homeowners Association, Inc., a Utah non-profit corporation without capital stock (the "Association") for the purposes of carrying out the aforesaid powers, duties and obligations;

NOW, THEREFORE, the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Quail Meadows Planned Unit Development are hereby amended and restated in their entirety as follows, and the Association hereby declares that the real property is and shall be held, conveyed, hypothecated or encumbered, sold, leased, used, occupied and improved subject to the covenants and restrictions hereinafter set forth, all of which, are declared and agreed shall be in aid of the Development's plan of development; shall protect the value of the real property and the improvements comprising the Development; shall run with and bind the real property and all persons having any right, title or interest therein, their heirs, successors and assigns; and shall inure to the benefit of and be enforceable by the Association, its successors and assigns, and any person owning or acquiring an interest in the real property.

ARTICLE I **DEFINITIONS**

When used in this Declaration (including that portion hereof captioned "RECITALS") each of the following terms shall have the meaning indicated:

1. Architectural Control Committee (ACC) shall be a group composed of the Chair-elect of the Trustees and two other individuals appointed by the Board to insure that all improvements and landscaping within the Property harmonize with existing surroundings and structure.
2. Articles shall mean and refer to the Articles of Incorporation of the Association, which are filed in the Office of the Secretary of State of Utah, as amended from time to time.
3. Association shall mean QUAIL MEADOWS AT TRI-CITY TWIN-HOMES HOMEOWNERS ASSOCIATION, INC. (QMHOA), a Utah non-profit corporation, and its successors and assigns.
4. Board shall mean the Board of Trustees of the Association.
5. Bylaws shall mean the Bylaws of the Association, as amended from time to time.
6. Common, Limited and Private Areas.

(a) Common Areas shall mean all portions of the Property within the Development except for areas designated as Private Area and Limited Common Area on the Plat, and shall include all property owned by the Association for the common use and enjoyment of the Owners such as all common recreational facilities, undedicated roads or streets, open spaces, structural common areas and the like, together with all easements appurtenant thereto. In the event a Living Unit is constructed forward or backward from the location designated on Plat, the area in the rear of the Living Unit opened up shall be Common Area.

(b) Limited Common Areas shall mean area identified on the plat map designated for driveways and private patio areas.

(c) Private Areas shall mean area identified on the plat map designated for footprint of Living Units.

7. Declarant shall mean Robinson Development, Inc.

8. Declaration shall mean this "Amended and Restated Declaration of Covenants, Conditions and Restrictions for Quail Meadows Planned Unit Development".

9. Development shall mean the Quail Meadows Twin-Homes Planned Unit Development as it exists at any given time.

10. Living Unit shall mean a structure which is designed and intended for use and occupancy as a single-family residence, together with all improvements located on the same Lot and used in conjunction with such residence.

11. Lot shall mean any lot of land within the Property designed and intended for improvement with a Living Unit.

12. Managing Agent shall mean any person or entity appointed or employed as Managing Agent by the Association.

13. Mortgage shall mean any first mortgage, first deed of trust or trust deed or the act of encumbering any property by a mortgage, deed of trust or trust deed; and

14. Mortgagee shall mean any first mortgagee or a mortgage and any trustee or beneficiary of a first deed of trust or trust deed.

15. Owner shall mean any person who is the owner of record (as reflected by the records in the office of the County Recorder of Utah County, Utah) of a fee or undivided fee interest in any Lot which is a part of the Development, including contract buyers.

Notwithstanding any applicable theory relating to mortgages, no Mortgagee shall be an Owner unless such party acquires fee title pursuant to foreclosure or sale or conveyance in lieu thereof.

Declarant shall be an Owner with respect to each Lot owned by it.

16. Plat shall mean and refer to the planned unit subdivision of Quail Meadows Twin-Homes Planned Development identified at the outset hereof as Item 2 initially creating Common Areas and 30 Lots, as the same may be amended or supplemented.

17. Property shall mean all land covered by this Declaration, including Common Areas and Lots and other land annexed to the Property, as provided in the Declaration.

18. Reimbursement Assessment shall mean a charge against a particular Owner and his Lot for the purpose of reimbursing the Association for costs incurred in bringing the Owner and his Lot into compliance with the provisions of this Declaration, the Articles, Bylaws, rules and regulations of the Association, or any other charge designated as a Reimbursement Assessment in this Declaration, the Articles, Bylaws or rules and regulations of the Association, together with costs, interest, attorney's fees and other charges payable by such Owner, pursuant to the provisions of this Declaration.

ARTICLE II THE ASSOCIATION

1. Purposes. With respect to the Development, the Association shall, through its Board of Trustees and officers, maintain and administer the Common Areas (including any area or system adjacent to the Development for which the Association has responsibility); administer architectural control matters; enforce the covenants, conditions, easements, reservations and restrictions set forth in this Master Declaration; levy and collect Assessments; pay Common Expenses; and, in general, manage the Development in a manner which will protect and enhance the value, desirability and attractiveness of the Development and the quality of the residential environment therein.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

1. Membership. Every Owner upon acquiring title to a Lot shall automatically become a member of the Association and shall remain a member thereof until such time as his ownership of such Lot ceases for any reason, at which time his membership in the Association with respect to such Lot shall automatically cease and the successor Owner shall become a member. Membership in the Association shall be mandatory and shall be appurtenant to and may not be separated from the ownership of a Lot.

2. **Transfer.** An Owner's membership in the Association shall not be transferred or alienated in any way except upon the conveyance or encumbrance of such Owner's Lot and then only to the grantee or mortgagee of such Lot.

3. **Voting Rights.** All Owners shall be entitled to one vote for each Lot which the interest required for membership in the Association is held.

4. **Multiple Ownership Interests.** In the event there is more than one Owner of a particular Lot, the vote relating to such Lot shall be exercised as such Owners may determine among themselves, but in no event shall more than one vote be cast with respect to any Lot. A vote cast at any Association meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the entire vote attributable to the Lot concerned unless an objection is made at the meeting by another Owner of the same Lot. If the multiple Owners fail to reach agreement as to the vote to be cast, the vote shall not be considered or counted.

ARTICLE IV **DUTIES AND POWERS OF THE ASSOCIATION**

1. **Duties of the Association.** Without limiting any other duties which may be imposed upon the Association by its Articles of Incorporation or this Declaration, the Association shall have the obligation and duty to do and perform each and every one of the following for the benefit of the Owners and the maintenance and improvement of the Property:

(a) The Association shall accept all Owners as members of the Association.

(b) The Association shall obtain and maintain in force the policies of insurance required by the provisions of this Declaration.

(c) The Association may employ a responsible corporation, partnership, firm, person or other entity as the Managing Agent subject at all times to direction by the Board, with such administrative functions and powers as shall be delegated to the Managing Agent by the Board. The compensation of the Managing Agent shall be such as shall be specified by the Board. Any agreement appointing a Managing Agent shall be terminable by either party, with or without cause and without payment of any termination fee, upon thirty (30) days written notice thereof; and the term of any such agreement may not exceed one year, renewable by agreement of the parties for successive one-year periods. Any Managing Agent may be an agent or employee of the Association or an independent contractor, as the Board deems appropriate.

2. **Powers and Authority of the Association.** The Association shall have all the powers set forth in its Articles of Incorporation, together with its general powers as a nonprofit corporation, and the power to do any and all things which may be authorized, required or permitted to be done by the Association under and by virtue of this Declaration, including the

power to levy and collect assessments as hereinafter provided. Without in any way limiting the generality of the foregoing, the Association shall have the following powers:

(a) The Association shall have the power and authority, at any time and from time to time and without liability to any Owner for trespass, damage or otherwise, to enter upon any Living Unit for the purpose of maintaining and repairing such Living Unit or any improvement thereon if, and only if, there is probable cause that a situation exists that compromises, or appears likely to compromise, the health, safety or integrity of the structure or the Development as a whole.

The Association shall also have the power and authority from time to time in its own name, on its own behalf, or in the name and behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or any rules and regulations promulgated by the Board, or to enforce by mandatory injunction or otherwise all of the provisions of this Declaration and such rules and regulations.

(b) In fulfilling any of its duties under this Declaration, including its duties for the maintenance, repair, operation or administration of the common areas, or in exercising any of its rights, the Association, in the fulfillment of any of its obligations and duties of maintenance, repair, operation or administration, shall obtain, contract and pay for, or otherwise provide for:

- i. Such insurance policies or bonds as the Board may deem appropriate for the protection or benefit of Declarant, the Association, the members of the Board and the Owners;
- ii. Such utility services, including (without limitation) water, sewer, trash removal, electrical, telephone and gas services, as the Board may from time to time deem desirable;
- iii. The services of architects, engineers, attorneys and certified public accountants and such other professional or nonprofessional services as the Board may deem desirable;
- iv. Maintenance of common areas and limited common areas, including landscape maintenance and snow removal.
- v. Fire, police and such other protection services as the Board may deem desirable for the benefit of the Owners or any of the Property; and
- vi. Such materials, supplies, equipment, services and labor as the Board may deem necessary.

(c) The Board may delegate to a Managing Agent any of its powers under this Declaration; provided, however, that the Board cannot delegate to such Managing Agent the power to execute any contract binding on the Association for a sum in excess of \$500.

3. Association Rules. The Board may from time to time and subject to the provisions of this Declaration, adopt, amend, repeal and enforce rules and regulations governing, among other things: (a) the use of any roads or utility facilities owned by the Association; (b) the collection and disposal of refuse; (c) the maintenance of animals on the Property; and (d) other matters concerning the use and enjoyment of the Property and the conduct of residents within the Development.

4. Reports and Audits. The Board shall provide financial reports and oversight over the administration of Association funds.

(a) The Treasurer shall provide semi-annual financial reports, via email or in hardcopy, to the Association members during the months of January and July of each year. Reports shall include information regarding receipts, expenditures, balances, projections, etc.

(b) The Treasurer shall, at the first general membership meeting each year, provide a report on the financial condition of the Association and a proposed budget and fee recommendations for the succeeding year.

(c) Annually, the Board shall appoint an Internal Audit Committee consisting of three Association members who are not members of the Board. This Committee shall review financial statements and other financial records of the Association and present a report of their findings at the first general membership meeting each year.

5. Election of Officers. The Board of Directors shall consist of five members. On an on-going basis, as the terms of service of Board members expire, replacements shall be elected by vote of the QMHOA membership.

- (a) Elections shall be conducted at the first general membership meeting of each year. Newly elected members of the Board shall begin their term of service the first day of the month following their election.
- (b) A simple majority of Association members represented at the meeting, either in person or by proxy, shall be required for the election of new Board members.
- (c) The Board shall choose its own officers from those elected by the membership, including Chair, Vice-Chair, Secretary, Treasurer and Member-at-Large.
- (d) Terms of service will typically be two years.
- (e) The Vice-Chair shall assume the duties of Chair upon the expiration of the term of service of the then-current Chair.

6. Limitation of Liability. No member of the Board acting in good faith shall be personally liable to any Owner, guest, lessee or any other person for any error or omission of the Association, its representatives and employees, the Board, any committee, or a Managing Agent.

ARTICLE V ASSESSMENTS

1. Personal Obligation and Lien. Each Owner shall, by acquiring or in any way becoming vested with his interest in a Lot and Living Unit, be deemed to tenant and agree to pay to the Association the monthly, special and reimbursement assessments described in this Article, together with late payment fees, interest and costs of collection, if and when applicable. All such amounts shall be, constitute, and remain: (a) a charge and continuing lien upon the Lot with respect to which such assessment is made until fully paid; and (b) the personal joint and several obligation of the Owner or Owners of such Lot at the time the assessment falls due. No Owner may exempt himself or his Lot from liability for payment of assessments by waiver of his rights in the Common Areas or by abandonment of his Lot and Living Unit. In a voluntary conveyance of a Lot and Living Unit, the grantee shall be jointly and separately liable with the grantor for all such unpaid assessments, late payment fees, interest and cost of collection, including reasonable attorney's fees which shall be a charge on the lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee thereof.

2. Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the Development, the administration of the Association, and enforcement of this Declaration and other laws, ordinances, rules, regulations, bylaws governing the Development and its residents within the powers of the Association. The use made by the Association of funds obtained from assessments may include payment of the cost of taxes and insurance and any expense necessary or desirable to enable the Association to perform or fulfill its obligations; functions or purposes under this Declaration or its Articles of Incorporation.

3. Monthly Assessments. The initial maximum monthly assessment under this Amended Declaration shall be \$100 per Living Unit.

(a) The maximum monthly assessment may be increased effective January 1 of each year without a vote of the membership in conformance with the rise, if any, of the Consumer Price Index (published by the Department of Labor, Washington, D.C.) for the preceding month of July.

(b) The maximum monthly assessment may be increased above that established by the Consumer Price Index formula by a vote of the members provided that any such change shall have the assent of two-thirds (2/3) of the votes of members who are voting in person or by proxy, at a meeting duly called for this purpose. Written or email notice of such meeting shall be sent to all members not less than ten (10) days, nor more than thirty (30) days in advance of the meeting setting forth the purpose of the meeting.

4. Special Assessments. The Association may levy special assessments for the purpose of defraying, in whole or in part: (a) any expense or expenses not reasonably capable of being fully paid with funds generated by monthly assessments; or (b) the cost of any construction, reconstruction, or unexpectedly required addition to or replacement of the Common Areas. Any such special assessment must be assented to be a majority of the votes of members who are voting in person or by proxy, at a meeting duly called for this purpose. Written or email notice setting forth the purpose of such meeting shall be sent to all Owners at least ten (10) but not more than thirty (30) days prior to the meeting date.

5. Quorum Requirements. The quorum at any meeting required for any action authorized by Section 3 or 4 above shall be as follows: At the first such meeting called, the presence of Owners of or proxies entitled to cast sixty percent (60%) of all the votes of membership shall constitute a quorum. If a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirements set forth in Section 3 and 4 above) at which a quorum shall be one-half (1/2) of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting.

6. Reimbursement Assessment on Specific Lots. In addition to the monthly assessment and any special assessment authorized pursuant to Section 4 above, the Board may levy at any time reimbursement Assessments (a) on every Lot especially benefited by any improvement to adjacent roads, sidewalks, planting areas, or other portions of the Common Areas made on the written request of the Owner of the Lot to be charged; (b) on every Lot the Owner or occupant of which shall cause any damage to the Common Areas necessitating repairs, and (c) on every Lot as to which the Association shall incur any expense for maintenance or repair work performed, or enforcement action taken, pursuant to provisions of this Declaration. The aggregate amount of any such Reimbursement Assessments shall be determined by the cost of such improvements, repairs, maintenance or enforcement action, including all overhead and administrative costs, and shall be allocated among the affected Lots according to the special benefit or cause of damage or maintenance or repair work or enforcement action, as the case may be, and such assessment may be made in advance of the performance of work. If a special benefit arises from any improvement which is part of the general maintenance obligations of the Association, it shall not give rise to a Reimbursement Assessment against the Lots benefited.

7. Uniform Rate of Assessment. All monthly and special assessments authorized by Section 3 or 4 above shall be fixed at a uniform rate for all Lots; provided, however, that until a Lot has been improved with a Living Unit and landscaped and the Association has assumed maintenance responsibilities, there shall be no monthly assessment. Unsold, landscaped lots for which the Association has responsibility for maintenance shall be assessed at the same rate as sold, occupied lots.

8. Monthly and Special Assessment Due Dates. Monthly and Special Assessment payments are due and payable on the first business day of each month. For new Owners or

Occupants, the Monthly and Special Assessments provided for herein shall commence on the first day of the first month of ownership or occupancy.

At least fifteen (15) days prior to the effective date of any change in the amount of the monthly or special assessments, the Association shall give each Owner or occupant written or email notice of the amount of the assessment concerned.

9. Certificate Regarding Payment. Upon the request of any Owner or prospective purchaser or encumbrancer of a Lot and upon the payment of a reasonable fee to the Association to cover administrative costs, the Association shall issue a certificate stating whether or not payments of all assessments respecting such Lot are current and, if not, the amount of the delinquency. Such certificate shall be conclusive in favor of all persons who rely thereon in good faith.

10. Effect of Nonpayment - Remedies. Any assessment, whether monthly, special or reimbursement, not paid when due shall, together with interest and costs of collection, be, constitute, and remain a continuing lien on the affected Lot. If any assessment is not paid within thirty (30) days after the date on which it becomes due, the amount thereof shall bear interest from the due date at the rate of one and one-half percent (1 1/2%) per month; and the Association may bring an action against the Owner who is personally liable or may foreclose its lien against the Lot, or both. Any judgment obtained by the Association in connection with the collection of delinquent assessments and related charges shall include reasonable attorneys fees, court costs and every other expense incurred by the Association in enforcing its rights.

11. Subordination of Lien to Mortgages. The lien of the assessment provided herein shall be subordinate to the lien of any Mortgage to a bank, savings and loan association, insurance company or other institutional lender. The holder of any such Mortgage or purchaser who comes into possession of a Lot by virtue of the foreclosure of such Mortgage or the exercise of a power of sale under such Mortgage, or by deed in lieu of foreclosure, shall take ownership free of such assessment lien as to any assessment which accrued or became due prior to the time such holder or purchaser taking possession of such Lot. To the extent there are any proceeds of the sale on foreclosure of such Mortgage or by exercise of such power of sale in excess of all amounts necessary to satisfy all indebtedness secured by and owed to the holder of such Mortgage, the lien shall apply to such excess. No sale or transfer shall relieve any Lot from the lien of any assessment thereafter becoming due.

ARTICLE VI PROPERTY RIGHTS AND CONVEYANCES

1. Form of Conveyancing; Leases. 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 or as otherwise compatible with the manner in which the Utah County Recorder records such information:

Lot No. _____ as identified in the Plat recorded in Book _____, Page _____, as Entry No. _____, contained within the Quail Meadows development identified in the "Declaration of Covenants, Conditions, and Restrictions of Quail Meadows Twin-Homes Planned Unit Development" recorded initially in the office of the Utah County Recorder in Book _____, at Page _____, as such may be amended from time-to-time. TOGETHER WITH a right and easement of use and enjoyment in and to the Common Areas described, and as provided for, in said Declaration of Covenants, Conditions and Restrictions.

Whether or not the description employed in any such instrument is in the above-specified form, however, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot. Any lease of a Lot shall be in writing, shall conform to the requirements of and be subject to the terms and conditions of this Declaration, and shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration and the Articles of Incorporation and Bylaws of the Association and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease.

2. Reservation of Access and Utility Easements. The Association reserves access and utility easements for electrical, gas, communications, cable television and other utility purposes and sewer, drainage and water facilities (whether servicing the Property or other premises or both) over, under, along, across and through the Property, together with the right to grant agency or to any public utility or other corporation or association, easements for such purposes over, under, across, along and through the Property upon the usual terms and conditions required by the grantee thereof for such easement rights; provided, however, that such easement rights must be exercised in such manner as not to interfere unreasonably with the use of the Property by the Owners and the Association and those claiming by, through or under the Owners or the Association; and in connection with the installation, maintenance or repair of any facilities as provided for in any of such easements, the Property shall be promptly restored by and at the expense of the person owning and exercising such easement rights to the approximate condition of the Property immediately prior to the exercise thereof. The forgoing shall include the right to place satellite dishes and other communications devices on the outside of any Living Unit to service such Living Unit or an attached Living Unit, and the right to place wiring associated with such device on, in or through the Living Units to which such devices are attached and those serviced thereby.

3. Easements for Encroachments. If any part of the Common Areas as improved by Declarant now or hereafter encroaches upon any Lot or if any structure constructed by Declarant on any Lot now or hereafter encroaches upon any other Lot or upon any portion of the Common Areas, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall exist. If any structure on any Lot shall be partially or totally destroyed and then rebuilt in a manner intended to duplicate the structure so destroyed, minor encroachments of such structure upon any other Lot or upon any portion of the Common Areas due to such reconstruction shall be permitted; and valid easements for such encroachments and the maintenance thereof, so long as they continue, shall exist.

4. **Easements for Construction and Development Activities.** The Association, on behalf of the Declarant, reserves easements and rights of ingress and egress over, under, along, across and through the Property and the right to make such noise; dust and other disturbance as may be reasonably incident to or necessary for the (a) construction of Living Units on Lots, (b) improvement of the adjacent amenities and construction, installation and maintenance thereof, roads, walkways, buildings, structures, landscaping and other facilities designed for the use and enjoyment of some or all of the Owners, (c) construction, installation and maintenance on lands within, adjacent to, or serving the Property of roads, walkways and other facilities planned for dedication to appropriate governmental authorities, and (d) development, improvement, use and occupancy of all or any portion of the Additional Land, whether or not such land is intended to be made part of the Property. The reservations contained in this paragraph shall expire five (5) years after the date on which the original Declaration was filed for record in the Office of the County Recorder of Utah County, Utah.

ARTICLE VII **USE RESTRICTIONS**

1. **Use of Lots and Living Units.** All Lots are intended to be improved with Living Units and are restricted to such use. Living Units may be occupied by related individuals or by a maximum of two unrelated individuals. Related individuals are limited to a maximum of one additional family group consisting of, or headed by, a sibling, parent, grandparent, child, or grandchild. All occupants are subject to the provisions of these Declarations governing Age Restrictions. Unrelated individuals must be age 55 or older. Live-in healthcare workers or caregivers are exempt from this requirement. Any exceptions must be approved in writing by the Board.

No Lot or Living Unit shall be used, occupied, or altered in violation of law, so as to jeopardize the support of any other Living Unit, so as to create a nuisance or interfere with the rights of any Owner, or in a way which would result in an increase in the cost of any insurance covering the Common Areas.

2. **Unoccupied Living Units.** Absentee ownership of Living Units, *per se*, is not permitted. Use of any Living Unit as a *de facto* destination resort or other transient housing arrangement is prohibited.

Once a Living Unit has been established as the primary domicile of at least one owner age 55 or older, related individuals and other guests may stay overnight in Living Units for brief periods during temporary owner absences. Temporary owner absences under this section may not exceed two years. Guests staying more than 15 days shall be considered *de facto* lessees who must comply with provisions of these Declarations governing Leasing of Living Units. Any exceptions must be approved in writing by the Board.

3. Age Restriction. The Development is intended to provide housing primarily for persons 55 years of age or older. The Development shall be operated as an age restricted community in compliance with all applicable Utah and federal laws. Related individuals 19 years of age and over may reside on a permanent basis with the owner to whom they are related. Persons under 19 years of age may stay overnight in a Living Unit for up to 60 days during any given year, but shall not occupy any Living Unit on a permanent basis.

Subject to the provisions herein, each Living Unit, if occupied, shall be occupied by at least one owner age 55 or older. Living Units may be occupied by a maximum of two unrelated individuals. All unrelated individuals must be age 55 or older.

Once a Living Unit is occupied by an owner or lessee age 55 or older, other permanent occupants of that Living Unit may continue to occupy the Living Unit, regardless of the termination of occupancy by the former occupant who was age 55 or older, for a period not to exceed two years. This time restriction does not apply to Live-in healthcare workers, caregivers or surviving spouses. The foregoing right to continue occupancy by persons not age 55 or older is not transferable. Other exceptions to the time restrictions must be approved by the QMHOA Board.

4. Leasing of Living Units. For the purposes of the Declaration, "leasing" is defined as regular, exclusive residency in a Living Unit by any Person other than the Owners, regardless of whether or not the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. Living Units may be leased only in their entirety. No fraction or portion may be leased. Lessees must qualify for residency under the same age restrictions as owner occupants. There shall be no subleasing of Living Units or assignment of leases except with the Board's prior written approval. All leases shall be in writing.

Notice of any prospective lease and copies of the intended lease agreement, together with such additional information as may be required by the Board, shall be given to the Board or its designee, by the Owner, at least thirty (30) days prior to the execution of the lease. Receipt of the documents must be acknowledged by the board in writing. The Owner must make available to the lessee copies of this Declaration and any rules, regulations or other governing documents then in effect. Lease agreements shall include explicit acknowledgement of receipt of such documents and acknowledgement by the lessee of the obligation to comply. The Board may adopt additional reasonable rules and regulations governing leasing and subleasing of Living Units, as it deems necessary.

5. Non-smoking. The Development is completely non-smoking. Smoking in any Living Unit and all common areas is strictly prohibited.

6. Animals and Pets. Other than pets, no animals of any kind, including livestock and poultry, shall be raised, bred, or kept on any portion of the Property within the Development. A maximum of two pets is permitted in each Living Unit except for fish in aquariums. Pets may only include dogs, cats, birds, fish or other pets as determined from time to time by the Board.

No pets shall be permitted to roam free, or, in the sole discretion of the Board, to endanger the health of other persons, make objectionable noise, or constitute a nuisance or inconvenience to the Owners or others within the Development. Pets, including dogs and cats, may not be allowed to soil or otherwise damage lawns, shrubs or other plants in the Common Areas with either urine or feces or to defecate in flower beds. Pet owners shall immediately remove and dispose of any droppings left by their pets anywhere within the confines of the Development. Owners are financially liable for any damage caused by their pets.

Dogs are limited to toy or miniature size. Dogs must be on leash at all times when outside Living units. Cats shall not be allowed to roam free. Pets in violation of rules and regulations shall be removed by the owner upon the Board's request. If the Owner fails to honor such request, the Board may cause the pet to be removed.

The Board may adopt reasonable rules and regulations designed to minimize damage and disturbance to other Owners and occupants, including rules requiring damage deposits, waste, trash removal, leash controls, noise controls, and limits based on any reasonable factor, including fair share use of the Common Area; provided, however, any regulation prohibiting the keeping of ordinary household pets shall apply prospectively only and shall not require the removal of any pet which was being kept in a Living Unit in compliance with the Declaration and any rules and regulations in effect prior to the adoption of such regulation. The Board may also adopt Rules which prohibit pets from certain Common Area locations. Nothing in this provision shall prevent the Board from requiring removal of any animal that presents an actual or potential threat to the health or safety of residents or from requiring abatement of any nuisance or unreasonable source of annoyance. No pets shall be kept, bred, or maintained for any commercial purpose.

7. Fences. Fences are restricted to the perimeter of the Development as installed by developer.

8. Temporary Structures. Tents, canopies or other structures of a temporary nature are prohibited in common areas except for the purpose of housing or entertaining guests for periods not to exceed three days. Temporary structures used during the construction or repair of a Living Unit or other improvements shall be removed immediately after the completion of construction or repair. Owners are responsible for the repair of any damage to the Common Areas caused by the presence or use of such structures.

9. Prohibited Improvements and Structures. The following structures and improvements are prohibited on any Lot and in the common areas. Exceptions may be permitted only if recommended by the ACC and approved by the QMHOA Board approval or by amending this Declaration in the manner provided:

- (a) Detached garages
- (b) Detached storage buildings and detached sheds;
- (c) Compost piles or containers;

- (d) Decks, patios or balconies except as recommended by the ACC and approval by the QMHOA Board
- (e) Ramadas or gazebos;
- (f) Basketball goals, except for temporary ones for periods not to exceed three days;
- (g) Outside clothes lines or other outside facilities for drying or airing clothes;
- (h) Satellite dishes of more than one meter in diameter;
- (i) Dog runs or animal pens; and
- (j) Roof mounted appliances such as weathervanes except reasonably sized Internet antennas subject to recommendation by the ACC and approval by the QMHOA Board.
- (k) Ham radio or television antennas other than satellite dishes.

10. Yard Art. Yard art is prohibited in the Development. Yard art is anything other than plants placed in common areas (outside the footprint of the home) after the initial landscaping. It includes, but is not limited to, artificial birds and animals, windmills, rocks, wood, lights, name markers and other decorative or ornamental displays and fountains. Bird feeders and bird baths are allowed in the common areas only upon recommendation of the ACC and with the approval of the Board. Tasteful seasonal decorations, including Christmas lights, may be displayed for reasonable periods of time prior to holidays but must be removed promptly after the occasion has passed.

11. Flagpoles. With the exception of a single flagpole in the south island of the Development, freestanding flagpoles are prohibited except temporary flagstaffs placed in common areas for display of the national flag on holidays and other special occasions. Flags may also be flown from fixtures attached to a Living Unit if such fixtures are recommended by the ACC and approved by the QMHOA Board. Display of the national flag is permitted but decorative flags, seasonal banners, etc. are prohibited.

12. Parking of Vehicles. While on-street parking is not prohibited by American Fork City ordinance, residents are encouraged to limit overnight on-street parking.

Residents must comply with all appropriate American Fork City ordinances and should not park any commercial vehicles, recreational vehicles, mobile homes, trailers, campers, boats or other watercraft, other oversized vehicles, stored vehicles, unlicensed vehicles, or inoperable vehicles within the Development other than in enclosed garages.

No vehicle, other than passenger vehicles, may be left on a driveway in the Development except that one boat or recreational vehicle may be temporarily parked completely in a driveway for not more than four nights within each calendar month. Passenger vehicles may not remain unmoved for more than one week.

13. Signage. No approval is required for the placement of signs, so long as such signs are of a type described below and conform to the requirements set forth below. Architectural

Control Committee recommendation and Board approval are required if the sign to be placed is not of a type described below or if the sign will not conform to the standards set forth below:

- (a) "For Sale" and "For Lease" Signs: "For Sale" and "For Lease" signs shall be permitted within the Development. Such signs shall be located in the common area immediately adjacent to the Living Unit that is available for lease or sale. Signs shall be a maximum of three (3) square feet and may be double-sided. The overall height from finished grade may not exceed four feet (4'). Only one sign per residence shall be allowed. Signs must be removed within two working days following the close of escrow or the execution of the lease. Placement of all signs shall conform to the criteria set by the Architectural Control Committee.
- (b) "Open House" Directional Signs: "Open House" signs may be placed in the common area immediately adjacent to the Living Unit which is for sale or lease. Such signs will be subject to the same limitations as those for "For Sale" and "For Lease" signs set forth above and must be removed daily upon termination of the open house hours. "Open House" signs shall not be permitted in any other common area.
- (c) Security System Signs: Signs which indicate that a residence is protected by a security system are permitted. Such signs shall be located within the flower beds adjacent to such homes. Such signs shall be single sided and a maximum of one hundred fifty (150) square inches. The overall height of the sign from finished grade may not exceed thirty inches (30"). Signs provided by a security company as part of the overall security system shall be used without alteration by the Owner. Only one such sign per Dwelling Unit shall be allowed. Decals of a size not to exceed thirty six (36) square inches *may* be displayed in windows.
- (d) Neighborhood Watch and "No Soliciting" Signs: Neighborhood watch signs, decals or stick-ons, not to exceed thirty six (36) square inches, may be displayed in windows. "No Soliciting" signs may be displayed at entrances to Living Units.
- (e) Campaign or Proclamation Signs -Local, State and Federal Elections: Campaign or Proclamation signs for local, state and federal elections are permitted within the Development. They must be placed within the common area immediately adjacent to the Living Unit whose owner is advocating the candidate or proclamation. Signs shall be limited to a maximum of three square feet and may be double-sided. The overall height from finish grade may not exceed four feet. Only one sign per residence shall be allowed. Signs shall not be placed sooner than 30 days prior to the election and must be removed within 3 working days after the election.

14. Clothes Drying. The outdoor drying or hanging of clothes is prohibited within the Development.

15. Storage Under Decks. Storage under decks is permitted so long as the storage area is enclosed by a screen, apron or skirting in a fashion, and using materials, recommended by the ACC and approved by the Board.

16. Personal Flowers, Vegetables and Flower Beds. Personal flowers are allowed in all common flower beds. Vegetables are allowed only in the flower beds on the side and in the rear of Living Units. Personal flowers and vegetables must be maintained by the owner of the immediately adjacent Living Unit in a neat, orderly and weed-free state. No alterations or disruption of the irrigation system are allowed. Plants must not encroach on lawn areas or otherwise prevent normal yard maintenance. Plants should not be taller than three feet above grade. Flower pots and planters adjacent to front entries and garage doors, and on or under decks and patios, are allowed.

17. Excessive Noise. Excessive noise is prohibited in the Development.

18. Exception for Declarant. Notwithstanding the restrictions contained in this Article, for the five (5) years following the date on which the original Declaration was filed for record in the office of the County Recorder of Utah County, Utah, Declarant shall have the right to use any Lot or Living Unit owned by it, in furtherance of any construction, marketing, sales, management, promotional, or other activities designed to accomplish or facilitate improvement and/or sale of all Lots owned by the Declarant, including, without limitation, the location of a temporary sales facility on any such Lot.

19. Enforcement of Land Use Restrictions. The following persons have the right to exercise or seek any remedy at law or in equity to enforce strict compliance with this Declaration:

- (a) Declarant, so long as it has any interest in any of the Property;
- (b) Any Owner; or
- (c) The Association.

The prevailing party in an action for the enforcement of any provisions of this Declaration shall be entitled to collect court costs and reasonable attorney's fees.

ARTICLE VIII ARCHITECTURAL CONTROL

1. Architectural Control Committee (ACC). The Board of Trustees of the Association shall appoint a three-member Architectural Control Committee (the ACC), the function of which shall be to insure that all improvements and landscaping within the Property harmonize with existing surroundings and structure. The Chair-elect of the Board shall also serve as the Chair of the ACC. The ACC need not be composed of only Owners. If such a Committee is not appointed, the Board itself shall perform the duties required of the Committee.

2. Submission of Requests to the ACC. No Living Unit, accessory or addition to a Living Unit shall be constructed or maintained, and no alteration, repainting, or refurbishing of

the exterior of any Living Unit shall be performed, unless complete plans and specifications thereof have first been submitted to, and recommended by the ACC and approved by the Board of Directors.

3. Standard. In deciding whether to recommend approval or disapproval of plans and specifications submitted to it, the ACC shall use its best judgment to insure that all improvements, construction, landscaping, and alterations on Lots within the Property conform to and harmonize with existing surroundings and structures.

4. Approval Procedure. Any plans and specifications submitted to the ACC shall be approved or disapproved by the Board, in writing, within thirty (30) days after submission. The ACC will make recommendations to the Board of Directors for approval or disapproval of all plans and specifications. Final decisions to approve or disapprove shall be made by the Board. In the event the ACC and the Board fail to take any action within such period they shall be deemed to have approved the material submitted unless notice is given that circumstances reasonably warrant an extension of time. In such cases, the ACC and the Board shall make a decision within a reasonable time. No decision shall be unreasonably withheld.

5. Construction. Once begun, any improvements, construction, landscaping, or alterations approved by the Board shall be diligently prosecuted to completion. If reasonably necessary to enable such improvement, construction, landscaping, or alteration, the person or persons carrying out the same shall be entitled to temporarily use and occupy portions of the Common Areas in the vicinity of the activity. At the conclusion of any such project, affected common areas shall be restored to their former condition by the Owner for whom the project is undertaken.

6. Liability for Damages. The ACC shall not be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this Article.

7. Exception for Declarant. Provisions one through four of this Article shall not apply to any improvement, construction, landscaping, or alteration which is carried out by Declarant on any Lot and which occurs at any time during the five (5) year period following the date on which the original Declaration was filed for record in the office of the County Recorder of Utah County, Utah.

8. Declarant's Obligation. Declarant hereby covenants in favor of each Owner that all Living Units erected by it in the Development shall be architecturally compatible with respect to one another.

ARTICLE IX INSURANCE

1. Liability Insurance. The Board shall procure and maintain from a company or companies holding a financial rating of Class VI or better from Best's Key Rating Guide a policy

or policies (herein called the "Policy") of Public Liability Insurance to insure the Association, the Board and the Managing Agent and employees of the Association against claims for bodily injury and property damage arising out of the conditions of the Development or activities thereon under a Comprehensive General Liability form. Such insurance shall be for such limits as the Board may decide, but not less than those limits customarily carried by properties of comparable character and usage in the County of Utah nor less than \$1,000,000 for personal injury and property damage arising out of a single occurrence, such coverage to include protection against water damage liability, liability for non-owned and hired automobile, liability for the property of others and such other risks as shall customarily be covered with respect to property similar in construction, location and use. The Policy shall contain a "Severability of Interest" endorsement which shall preclude the insurer from denying the claim of any Owner because of negligent acts of the Association or other Owners and a cross-liability endorsement pursuant to which the rights of the named insureds, as between themselves, are not prejudiced. The Policy shall provide that the Policy may not be canceled by the insurer unless it gives at least 180 days prior written notice thereof to the Board and every other person in interest who shall have requested in writing such notice of the insurer. Any such coverage procured by the Board shall be without prejudice to the right of the Owners to insure their personal liability for their own benefit at their own expense.

2. Additional Insurance; Further General Requirements. The Board may also procure insurance which shall insure the Association or the Owners and others against such additional risks as the Board may deem advisable. Insurance procured and maintained by the Board shall not require contribution from insurance held by any of the Owners or their Mortgagees.

3. Review of Insurance. The Board shall periodically, and whenever requested by twenty percent (20%) or more of the Owners, review the adequacy of the Association's insurance program and shall report in writing the conclusions and action taken on such review to the Owner of each Lot and to the holder of any Mortgage on any Lot who shall have requested a copy of such report. Copies of every policy of insurance procured by the Board shall be available for inspection by any Owner.

4. Lots and Living Units Not Insured by Association. The Association shall have no duty or responsibility to procure or maintain any fire, liability, extended coverage or other insurance covering any Lot and acts and events there. Accordingly, Owners of Lots in the Development shall obtain fire, extended coverage and liability insurance to the full replacement value of all Living Units constructed on such Owner's Lot.

5. Other Insurance Provisions. All insurance required pursuant to this Article shall be written by insurers licensed in the State of Utah.

ARTICLE X **MISCELLANEOUS**

1. Notices. Any notice required or permitted to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly furnished if delivered,

mailed postage prepaid or sent by email to the person named as the Owner, at the latest address for such person as reflected in the records of the Association at the time of delivery or mailing. Any notice required or permitted to be given to the Association may be given by delivering or mailing the same to the Managing Agent or the President of the Association. Any notice required or permitted to be given to the Architectural Control Committee may be given by delivering or mailing the same to the Managing Agent or any member of the Architectural Control Committee, or the Board as the case may be.

2. Amendment. The vote of at least two-thirds (2/3) of the members of the Association shall be required to amend this Declaration and the Plat. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by the Association. In such instrument the Association shall certify that the vote required by this Section for amendment has occurred.

Notwithstanding anything to the contrary herein contained, no amendment to the Plat or to any provision of this Declaration may have the effect of diminishing or impairing any right, power, authority, privilege, protection, or control accorded to Declarant (in its capacity as Declarant) herein shall be accomplished or effective unless the instrument through which such amendment is purported to be accomplished is consented to in writing by Declarant.

3. Consent in Lieu of Vote. In any case in which this Declaration requires for authorization or approval of a transaction the assent or affirmative vote of a stated percentage or number of the Owners, whether present or represented by proxy at a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Owners entitled to cast membership votes. The following additional provisions shall govern any application of this Section 3:

(a) All necessary consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Owner.

(b) The total number of votes required for the applicable authorization or approval shall be determined as of the date on which the last consent is signed.

(c) Except as provided in the following sentence, any change in ownership of a Lot which occurs after a consent has been obtained from the Owner thereof shall not be considered or taken into account for any purpose.

(d) Unless the consent of all Owners whose memberships are appurtenant to the same Lot are secured, the consent of none of such Owners shall be effective.

4. Reserve Fund. The Association shall establish an adequate reserve to cover the costs of reasonably predictable and necessary expenses and shall cause such reserve to be funded by regular monthly or other periodic assessments against the Lot Owners rather than by special assessments.

5. Declarant's Rights Assignable. All or any portion of the rights of Declarant under this Declaration or in any way relating to the Property may be assigned.

6. Interpretation. 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, and any gender shall include both genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof, which shall remain in full force and effect. The laws of the State of Utah shall govern the validity, construction and enforcement of this Declaration.

7. 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 Declarant, the Association, all parties who hereafter acquire any interest in a Lot, their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Lot or Living Unit shall comply with, and all interests in all Lots or in the Common Areas shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration. By acquiring any interest in a Lot, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

8. Duration. The covenants and restrictions of this Declaration shall remain in effect for a term of thirty (30) years from the date this Declaration is filed in the office of the County Recorder of Utah County, Utah, after which time they shall be automatically extended for successive periods of ten (10) years each unless terminated by an instrument filed in the office of the County Recorder, executed by any two (2) officers of the Association, certifying that the Owners of at least seventy-five percent (75%) of the Lots voted in favor of such termination.

9. Exempt Lots. Lot 1 and Lot 2 as identified on the Plat shall be exempt from paying dues, shall not be assessed, shall be exempt from the Use Restrictions set forth in Article VII, shall be Private Areas in their entirety, and shall have no voting rights and no right to the use of any Common Areas within the Development.

10. Effective Date. This Declaration, any amendment or supplement hereto, and any amendment or supplement to the Plat shall take effect upon its being filed for record in the office of the County Recorder of Utah County, Utah.

EXECUTED by the Association on the day and year first above written.

Quail Meadows at Tri-City Twin-Homes Homeowners Association, Inc.

By: Norman W. Sammis
 Norman W. Sammis
 Association President

IN WITNESS WHEREOF, the undersigned, Quail Meadows Twin-Homes Planned Unit Development of Utah County, has executed the instrument this 31st day of August, 2006.

Norman W. Sammis
 Norman W. Sammis
 President

STATE OF UTAH)
 : ss.
 COUNTY OF UTAH)

On the 31 day of August, 2006, personally appeared before me Norman W. Sammis who being by me duly sworn did say that he, Norman W. Sammis is the President of said Quail Meadows at Tri-City Twin-Homes Homeowners Association, Inc. that executed the within instrument and did acknowledge to me that the said corporation executed the same.

Marla S. Fickrell
 Notary Public
 Residing at: Am. Fork, Utah

My Commission Expires:

9-17-06

