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DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS

FOR

BOUNTIFUL MEADOWS AT SUMMERWOOD PHASE I SUBDIVISION

A RESIDENTIAL SUBDIVISION

IN

DAVIS COUNTY, UTAH

IVORY HOMES,
a Utah limited Partnership

AS DEVELOPER

WHEN RECORDED RETURN TO:

James R. Blakesley
Attorney at Law
2595 East 3300 South
Salt Lake City, Utah 84109

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
BOUNTIFUL MEADOWS AT SUMMERWOOD SUBDIVISION
PHASES I AND II**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for BOUNTIFUL MEADOWS AT SUMMERWOOD SUBDIVISION PHASES I AND II, (the "Declaration") is executed by IVORY HOMES, Ltd., a Utah limited liability company, of 970 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 Davis 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 Phase I, Lots 1 - 33, inclusive, and Phase II, Lots 201-229, inclusive.

C. 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 the Property, all in accordance with the provisions of this Declaration.

D. Since the completion of the Project may be in phases, the completed Project will consist of the original phase and all subsequent phases.

E. Developer has acquired all of the necessary consents and approvals.

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. "Architectural Review Committee" shall mean that body of persons delegated to consider, investigate, take action on or report on the use restrictions, design guidelines, construction and maintenance of the Buildings and/or Dwelling Units in the Subdivision.

b. "Assessment" shall mean the amount assessed an Owner by the Architectural Review Committee.

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

or occupancy permit for one or more Lots.

d. "Common Expense" shall mean: (1) All sums lawfully assessed against the Owners; (2) Expenses of administration, maintenance, repair or replacement of the Property or improvements constructed or installed thereon; (3) Expenses allocated by the ARC among the Owners; (4) Expenses agreed upon as common expenses by the ARC; and (5) Expenses declared common expenses by the Declaration.

e. "Committee" shall mean the Architectural Review Committee.

f. "Dwelling" shall mean the detached single family residence, place of habitation, abode or living unit constructed upon a Lot.

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

h. "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.

i. "Property" shall mean the Subdivision.

j. "Subdivision" shall mean the BOUNTIFUL MEADOWS AT SUMMERWOOD PHASE 1 SUBDIVISION.

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

3. 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 approval required.

4. Use Restrictions and Nature of the Project. The Lots are subject to the following use restrictions which shall govern both the architecture of the Dwellings and the activities permitted therein:

a. Residential Purposes. No Lot shall be used except for single family residential purposes.

b. 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.

c. Landscaping. All landscaping, grading and drainage of the land in each Lot shall

be completed so as to comply with and not impair all flood control requirements of the Subdivision and the other Lots.

d. Easements. Easements and rights of way for the installation and maintenance of utilities, drainage systems and facilities, and irrigation are reserved, as set forth herein and in the legal descriptions of the 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 their Owners, excepting those improvements for which a public authority or utility company is expressly responsible.

e. Walls, Fence and Hedges. No fence, wall, hedge, or other similar structure shall be erected in a required front yard to a height in excess of three (3) feet, nor shall any such structure be erected in any side or rear yard to a height in excess of six (6) feet. No fence, wall or other similar structure shall be erected in any front yard. Where a retaining wall protects a cut below the natural grade and is located on the line separating Lots, such retaining wall may be topped by a fence, wall or hedge or similar structure six (6) feet in height. The only acceptable fencing materials are wood, masonry vinyl or wrought iron. **NO CHAIN LINK FENCING IS PERMITTED** under any circumstances and, if installed, such fencing must be removed by the owner and the property restored to its original condition, at the owner's sole cost and expense.

f. Slope and Drainage Control. No structure, plant, improvement or other material may be placed or permitted to remain, or other activities undertaken which may damage or interfere with established Lot ratios, create erosion or sliding problems, or which may change the direction 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.

g. Nuisances. No noxious or offensive activity shall be carried on, in or about the Property, nor shall anything be done or permitted thereon which may be or may become an annoyance, disturbance, bother or nuisance to the neighborhood, or which might interfere with the right of other residents to the quiet and peaceful enjoyment of their property. Behavior, conditions or activities which materially disturb or destroy the vegetation, wildlife, or air quality within the Property or which result in unreasonable levels of sound or light pollution shall be considered a nuisance. No automobiles, vans, sport utility vehicles, trucks, campers, motor homes, trailers, boats, watercraft, recreational, commercial, oversized or other vehicles shall be stored on streets or in front yards. Recreational, commercial, oversized or other motor vehicles may be stored on

cement parking slabs in side yards so long as they are in running condition, regularly used, and currently licensed and registered.

h. Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste (hereinafter referred to collectively as "Trash"). All Trash shall be kept at all times in sanitary containers. All Trash containers shall be kept in sanitary condition. No Trash containers, unsightly material or objects are to be stored on any Lot in view of the general public, except on Trash pick-up days and then for a period not in excess of twenty-four (24) hours. Disposal of any oil, gas, or lubricants, and the storage or disposal of other hazardous materials anywhere within the Property is prohibited.

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

j. Construction Materials. All building exteriors must be constructed of brick, cultured stone, rock, cement fiber board such as HardiPlank, maintenance free stucco, or combinations thereof. Aluminum or vinyl siding is only permitted on the fascia and trim. Any construction materials not expressly and specifically identified herein are subject to the written consent and approval of the Architectural Review Committee. Any detached accessory buildings or structures must conform in design and materials with the primary residential dwelling in order to maintain uniformity of appearance and quality of construction.

5. Architectural Review Committee.

a. Except for the initial Architectural Review Committee (the "ARC") which shall consist of the Owner/Developer of record and its assigns, the ARC shall be comprised of three (3) Owners, the majority of which shall constitute a quorum. The concurrence of the majority of the members of the ARC shall be necessary to carry out the provisions applicable to this Committee. In the event of death or resignation of any of the members of the Committee, the surviving members of the ARC shall have full authority to appoint another person to fill said vacancy. Except for the initial members appointed to the ARC, all members of the ARC must be Owners and residents of the subdivision at the time of their appointment. Should any member move his residence outside of the subdivision he shall be disqualified to serve and the ARC shall declare a vacancy. At such time that all Lots owned by the initial Declarant are sold (the "Period of Declarant's Control"), the aforementioned Declarant shall appoint three (3) property owners in the subdivision to stand as the ARC.

b. It is understood that the ARC members shall serve without pay, and are to give of their time as a public service to the Subdivision. Therefore, any liability incurred due to an oversight or implied mistake that might arise due to the action of the ARC or any of its members while carrying out the functions of the ARC will be exempt from any and all civil claims brought by Owners or residents. Therefore, each Owner (or all of the Owners acting as a group according to this

Declaration) shall save, indemnify and hold harmless the ARC members to any such action and they shall be exempt from any civil recourse either intended or implied to any of the ARC members while serving in the capacity of the ARC, or for the decisions, acts, omissions, judgements and the like which they may take or render during the course of their service, including negligent acts or omissions.

6. Committee Procedure and Grant of Authority

a. The ARC shall consider, approve and/or reject the following items; provided, however, during the Period of Declarant's Control, with only his approval and consent the ARC can accept or reject:

- 1) Preliminary Plans of proposed residences (as defined herein).
- 2) Planning problems or complaints by Owners.

b. That ARC shall act within thirty (30) days on any of the above, and place its action in writing to be held as a permanent record, with copies to parties concerned and on file.

c. The final plans shall be delivered to the ARC, which shall accept or reject them for review within thirty (30) days, and so notify the Owner in writing.

d. An Owner whose plans are rejected shall meet with the ARC at the ARC's invitation where he shall be informed of the nature of the cause of the action so that he can take the steps necessary toward obtaining approval of his plans.

e. Finally, the ARC has the authority to judge Buildings, Dwelling Units, construction materials, fences, planting, landscaping and other improvements in the Subdivision, on whatever basis available to it with the aim of preserving what it feels are the best interests of the property owners represented. These shall include, but not be limited to aesthetics, reasonable protections of view, quality of construction, quality of materials and the like. All decisions of the ARC shall be final.

f. In the event the ARC fails to approve or disapprove such proposed design and location within thirty (30) days after such plans and specifications have been submitted to it in writing, then this covenant will be deemed to have been complied with, provided the said structure shall conform to and be in harmony with existing structures in the tract and with the other provisions herein contained.

g. The ARC shall have, and is hereby granted, the following authority and powers:

- 1) The power and authority to enter into or upon any Lot.
- 2) The authority, without the vote or consent of the Owners, mortgagees, insurers or guarantors of any mortgage, or of any other person, to grant or create, on such terms as it deems advisable, reasonable permits, licenses, and non-exclusive easements over, under, across, and

through the Subdivision for utilities, roads, and other purposes reasonably necessary or useful for the operation or regulation of the Subdivision.

3) The authority to execute and record, on behalf of all Owners, any amendment to the Declaration or Plat Map which has been approved by at least 67% of the Owners in writing.

4) The power to sue and be sued.

5) The authority to enter into contracts which in any way concern the Subdivision, so long as any vote or consent necessitated by the subject matter of the agreement has been obtained.

6) The authority to promulgate such reasonable design guidelines, administrative rules, regulations and procedures as may be necessary or desirable to aid the ARC in carrying out any of its functions.

7) The authority to conduct meetings.

8) The authority to issue citations, levy fines and make Assessments.

9) The authority to interpret and enforce this Declaration.

10) The power and authority to perform any and all other acts, and to enter into any other transactions which may be reasonably necessary for the ARC to perform its functions on behalf of the Owners.

h. By the acceptance of a deed to a lot or any other document of conveyance, each owner expressly agrees that individual assessments may be levied against him and his lot by the ARC to pay, compensate or reimburse the ARC for: (1) late fees, (2) default interest on amounts due at 1.5% per month (unless otherwise determined by the ARC), (3) fines levied for violations of these covenants; (4) costs and expenses incurred by the ARC in interpreting and/or enforcing these restrictions; and (5) reasonable attorney's fees, default interest, late fees, and other charges relating thereto.

i. Each Assessment is a debt of the Owner at the time the Assessment is made and is collectible as such. If any Owner fails or refuses to make any payment of the debt when due, that amount constitutes a lien on the interest of the Owner in the Property, and upon the recording of notice of lien by the ARC is a lien upon the Owner's interest in the Property prior to all other liens and encumbrances, recorded or unrecorded, except: (1) tax and special assessment liens on the lot in favor of any assessing unit or special improvement district; and (2) encumbrances on the interest of the owner recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

j. If any Assessments remain unpaid, the ARC may institute suit to collect the amounts due and/or commence procedures to foreclose the lien.

k. Each Owner, by acceptance of a deed or as a party to any other type of conveyance, vests in the ARC or its agents the right and power to bring all actions against him personally for the

collection of the charges as a debt or to foreclose the lien in the same manner as mechanics liens, mortgages, trust deeds or encumbrances may be foreclosed.

l. No Owner may waive or otherwise exempt himself from liability for the payment of any Assessments provided for herein by the abandonment of his Lot.

m. No reduction or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the ARC to take some action or perform some function required to be taken or performed by the ARC under this Declaration or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay Assessments being a separate and independent covenant on the part of each Owner.

n. The lien for nonpayment of Assessments may be enforced by sale or foreclosure of the Owner's interest therein by the ARC. The sale or foreclosure shall be conducted in the same manner as foreclosures in deeds of trust or mortgages or in any other manner permitted by law. In any foreclosure or sale, the Owner shall pay the costs and expenses of such proceedings, including but not limited to the cost of a foreclosure report, reasonable attorney's fees, and a reasonable rental for his home during the pendency of the foreclosure action. The ARC in the foreclosure action may require the appointment of a receiver to collect the rental without regard to the value of the mortgage security. The ARC may bid for the lot at foreclosure or other sale and hold, lease, mortgage, or convey the same.

o. If the ARC elects to foreclose the lien in the same manner as foreclosures in deeds of trust, then the Owner by accepting a deed to the Lot hereby irrevocably appoints the attorney of the ARC, provided he is a member of the Utah State Bar, as Trustee, and hereby confers upon said Trustee the power of sale set forth with particularity in Utah Code Annotated, Section 57-1-23 (1953), as amended. In addition, Owner hereby transfers in trust to said Trustee all of his right, title and interest in and to the real property for the purpose of securing his performance of the obligations set forth herein.

p. Each Owner by accepting a deed or other document of conveyance to a Lot hereby irrevocably appoints the ARC as his attorney in fact to collect rent from any person renting his Lot, if the Lot is rented and owner is delinquent in the payment of his assessments. Rent due shall be paid directly to the ARC upon written demand, until such time as the Owner's Assessments are current; and the Owner shall credit the renter, against rent due, for the amount of money paid to the ARC.

7. 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 invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.

8. 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 Owners, 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.

9. Enforcement and Right to Recover Attorney's Fees. Should the ARC or an aggrieved Owner be required to take action to enforce or construe the Declaration or any rules and regulations adopted from time to time, or to pursue any remedy provided hereunder or by applicable law, including a claim for injunctive relief or damages, whether such remedy is pursued by filing suit or otherwise, the non-defaulting party shall be entitled to recover his reasonable attorneys's fees, costs and expenses which may arise or accrue.

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

11. Amendments. This Declaration may be amended upon the affirmative written approval of at least a majority of the Owners of the Lots and shall be valid immediately upon recording of the document amending the Declaration in the office of the County Recorder of Salt Lake 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.

12. 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 period of ten (10) years.

Dated the 12 day of December, 2000.

DEVELOPER:
IVORY HOMES, Ltd.

By: 
Name: Clark D. Ivory

Title: Managing Member of Value, L.C. who is General Partner of Ivory Homes, Ltd.

EXHIBIT 'A'
LEGAL DESCRIPTION

The Property referred to in the foregoing document is located in Davis County, Utah and is described more particularly as follows:

E 1629626 B 2726 P 210

Lot 1-33, inclusive, of the Bountiful Meadows at Summerwood Phase I recorded plat, entry #1525909, Book no. 2520, Page 210 on June 18, 1999, and

Lots 201- 229, inclusive, of the Bountiful Meadows at Summerwood Phase II recorded plat, entry 1609217, Book No. 2683, Page 717 on August 22, 2000.