

DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS

FOR

COLDWATER CREEK

A PLANNED UNIT DEVELOPMENT

IN

WEBER COUNTY, UTAH

RUSSELL-PACKARD DEVELOPMENT, INC.
a California corporation

AS DECLARANT

WHEN RECORDED RETURN TO
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Salt Lake City, Utah 84109

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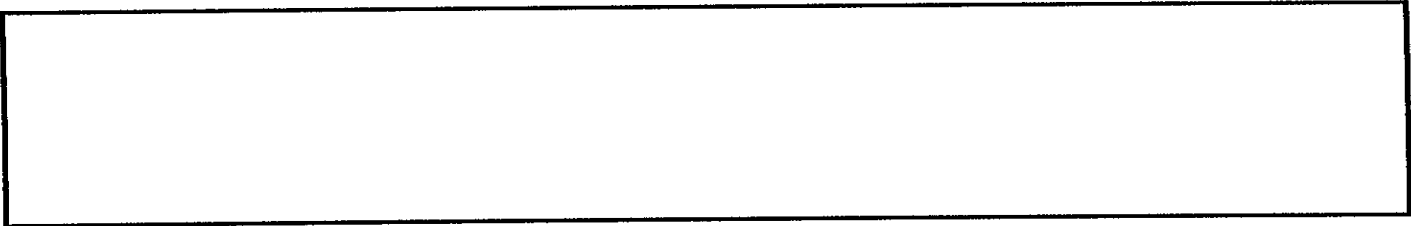


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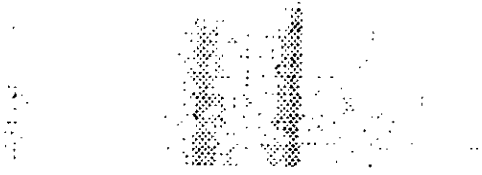
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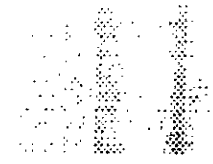
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VI



VI

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
COLDWATER CREEK,
A UTAH PLANNED UNIT DEVELOPMENT

THIS Declaration of Covenants, Conditions and Restrictions for COLDWATER CREEK, a Utah planned unit development, is made and executed by RUSSELL-PACKARD DEVELOPMENT, INC., a California corporation, whose principal address is P. O. Box 198, Lehi, Utah 84043 (hereinafter referred to as the "Declarant").

RECITALS:

- A. This Declaration of Covenants, Conditions and Restrictions affects that certain real property located in City of North Ogden, Weber County, Utah described with particularity in Article II below (hereinafter referred to as the "Tract").
- B. Declarant is the owner of the Tract.
- C. Declarant has constructed, is in the process of constructing or will construct upon the Tract a residential planned unit development, which shall include certain Lots, Common Area, and other improvements. All of such construction has been, or is to be, performed in accordance with the Declaration and plans contained in the Record of Plat Map to be recorded concurrently herewith.
- D. Declarant intends to sell to various purchasers the fee title to the individual Lots contained in the Tract, and a corresponding membership interest in the Association of Lot Owners (which shall own the Common Area), subject to the Plat Map, and the covenants, conditions and restrictions set forth herein.
- E. Since the completion of the Project may be in phases, the completed Project will consist of the original phase and all subsequent phases.
- F. Declarant desires by filing this Declaration and Record of Plat Map to submit the Tract and all improvements now or hereafter constructed thereon to the terms, covenants and conditions of this Declaration.
- G. The Project is to be known as COLDWATER CREEK.

NOW, THEREFORE, for the reasons recited above and subject to the covenants, conditions and restrictions set forth below, Declarant hereby makes the following Declaration:

I. DEFINITIONS

When used in this Declaration (including in that portion hereof entitled "Recitals"), each of the following terms shall have the meaning indicated unless the context clearly requires otherwise.

1. Additional Charges shall mean and refer cumulatively to all collection and administrative costs, including but not limited to all attorney's fees, late charges, fines, service fees, filing and recordation expenses, default interest and other similar costs actually incurred or assessed by the Association.
2. Articles of Incorporation shall mean and refer to the Articles of Incorporation of the Association of Lot Owners of COLDWATER CREEK on file or to be filed with the Utah Department of Commerce.
3. Assessments shall mean and refer to the allocation of Common Expenses imposed upon the various Lots and Lot Owners.
4. Association shall mean the association of Lot Owners in the Project acting as a group.
5. Building shall mean and refer to any of the structures constructed in the Project.
6. Business and Trade shall mean and refer to, without limitation, 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. Anything to the contrary notwithstanding, the leasing of a residence shall not be considered a trade or business within the meaning of this sub-Section.
7. By Laws shall mean and refer to the document attached to this Declaration as Exhibit "C".
8. Capital Improvement shall mean and refer to each significant fixed physical asset within the Project, included in its original design or construction, or subsequently added to the Project, intended to extend its useful life and/or enhance, upgrade and improve the utility, value or beauty of the Common Areas or Facilities. The term Capital Improvement shall be deemed to include the repair, maintenance or replacement of said capital assets, such as the Project's utility systems, gazebo(s), walking path(s), patio structures, picnic facilities, entry monument, private ways, area lighting, fences and common sidewalks.
9. Capital Improvement Expenses shall mean and refer to all expenses related to the

design, purchase, installation, construction, maintenance, repair or replacement of a Capital Improvement.

10. Class B Control Period shall mean and refer to the period of time during which the Class B Member is entitled to appoint all or a majority of the members of the Management Committee.

11. Committee shall mean and refer to the Management Committee.

12. Common Areas or Common Areas and Facilities shall mean and refer to all real property located within the Project in which the Association owns an interest for the common use and benefit of its Members, their successors, assigns, tenants, families, guests and invitees, including but not limited to the following items:

a) The real property and interests in real property submitted hereby, including the entirety of the Tract and all improvements constructed thereon, excluding the individual Lots.

b) All Common Areas and Facilities designated as such in the Plat Map or Maps;

c) All utility installations and all equipment connected with or in any way related to the furnishing of utilities to the Project and intended for the common use of all Lot Owners, such as telephone, electricity, gas, water, and sewer;

d) All portions of the Project not specifically included within the individual Lots;
and

e) All other parts of the Project normally in common use or necessary or convenient to the use, existence, maintenance, safety, operation or management of the Property owned by the Association for the common benefit of its Members.

13. Common Expense shall mean and refer to:

a) All sums lawfully assessed against the Lot Owners;

b) Expenses of administration, maintenance, repair, or replacement of the Common Areas and Facilities;

c) Expenses allocated by the Association;

d) Expenses agreed upon as common expenses by the Association; and

e) Expenses declared common expenses by the Project Documents.

14. Community shall mean and refer to the Project as a whole.

15. Community Wide Standard shall mean and refer to the standard of conduct, maintenance, or other activity generally prevailing in the Community as determined by the Management Committee from time to time.

16. Declaration shall mean and refer to this Declaration of Covenants, Conditions and Restrictions of the COLDWATER CREEK.

17. Declarant shall mean and refer to RUSSELL-PACKARD DEVELOPMENT, INC., a California corporation, and its successors and assigns, unless otherwise indicated.

18. Dedicated Streets shall mean and refer to those streets and cul-de-sacs within the Project formally dedicated to the City of North Ogden in Weber County, or any other municipal or governmental body politic, entity or agency.

19. Dwelling Unit or Unit shall mean and refer to the single family townhomes, living units, dwelling units or residential structures constructed upon each Lot.

20. Eligible Insurer shall mean and refer to an insurer or governmental guarantor of a mortgage or trust deed who has requested notice in writing of certain matters from the Association in accordance with this Declaration.

21. Eligible Mortgagee shall mean and refer to a mortgagee, beneficiary under a trust deed, or lender who has requested notice in writing of certain matters from the Association in accordance with this Declaration.

22. Eligible Votes shall mean and refer to those votes available to be cast on any issue before the Association or the Committee. A vote which is for any reason suspended is not an "eligible vote".

23. Guest shall mean and refer to a visitor, invitee or person whose temporary presence within the Project is approved by or is at the request of a particular resident.

24. Improvement shall mean and refer to all existing physical structures and appurtenances to the Property of every kind and type, including but not limited to all buildings, dwelling units, fixtures, plumbing, electrical, heating, air conditioning and utility systems, roads, private ways, walkways, driveways, parking areas, fences, walls, stairs, landscaping, trees, shrubs, bushes and green space.

25. Land shall mean and refer to all of the real property within the Project and subject to this Declaration.

26. Lot shall mean and refer to a portion of the Property, other than the Common Area, intended for any type of independent ownership and use as may be set out in this Declaration and as

shall be shown on the Plat Map filed with this Declaration or amendments thereto. Where the context indicates or requires, the term Lot includes any dwelling or living unit, physical structure or improvement constructed on the Lot.

27. Lot Number shall mean and refer to the number, letter or combination thereof designating a particular Lot.

28. Lot Owner shall mean and refer to the person who is the owner of record, in the office of the County Recorder of Weber County, Utah, of a fee or an undivided fee interest in a Lot. The term Lot Owner does not mean or include a mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

29. Majority shall mean and refer to those eligible votes of Owners or other groups as the context may indicate totaling more than fifty (50%) percent of the total eligible number.

30. Management Committee shall mean and refer to those Lot Owners duly elected and qualified to manage, operate and regulate the Association.

31. Manager shall mean and refer to the person or entity appointed or hired to manage and operate the Project.

32. Map shall mean and refer to the Plat Map on file in the office of the County Recorder of Weber County.

33. Member shall mean and refer to an Owner obligated, by virtue of his Ownership, to be a shareholder in the Association.

34. Mortgage shall mean and refer exclusively to either a first mortgage or first deed of trust on any Lot, but shall not mean or refer to a uniform real estate contract, land sales contract or an executory contract of sale.

35. Mortgagee shall mean and refer exclusively to a mortgagee under either a first mortgage or a beneficiary under a first deed of trust on any Lot, but shall not mean or refer to a seller under a uniform real estate contract, land sales contract, or an executory contract of sale.

36. Owner shall mean and refer to the Lot Owner.

37. Period of Declarant's Control shall mean and refer to a period of time commencing on the date this Declaration is recorded and terminating when the earliest of the following events occurs: (a) Four (4) months after seventy five percent (75%) of the Dwelling Units (constructed upon the Lots) have been sold; or (b) Seven (7) years from the effective date of this Declaration; or (c) When, in its sole discretion, Declarant so determines.

38. Permanent Resident shall mean and refer to a person who resides in the Project for more than four (4) consecutive weeks or for more than eight (8) weeks in any calendar year.

39. Person shall mean and refer to a natural person, corporation, partnership, trust, limited liability company, or other legal entity.

40. Plat Map shall mean and refer to the "Plat Map or Maps of COLDWATER CREEK" on file in the office of the County Recorder of Weber County, as they may be amended from time to time. The Plat Map will show the location of the Lots and Common Area.

41. Private Way or Private Drive shall mean and refer to those ways, drives or turnabouts within the Project not dedicated to the City of North Ogden.

42. Private Yard Area shall mean and refer to the private yard area within a Lot to the rear or in back of or behind the Dwelling Unit.

43. Project shall mean and refer to the COLDWATER CREEK.

44. Project Documents shall mean collectively the Declaration, By-Laws, Administrative and House Rules and Regulations adopted by the Committee from time to time, and Articles of Incorporation of the Association.

45. Property shall mean and refer to all of the land or real estate, improvements and appurtenances submitted to this Declaration.

46. Recreational, Oversized or Commercial Vehicle shall mean and refer to any recreational, commercial or oversized vehicle, motor home, commercial vehicle, tractor, golf cart, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft, boat trailer, or any other recreational, oversized or commercial transportation device of any kind.

47. Single Family Home or Residence shall mean and refer to both the architectural style of a Dwelling Unit and the nature of the residential use thereof or activity permitted therein.

48. Total Vote shall mean and refer to the total of all of the votes in the entire Project.

II. SUBMISSION

The Land, described with particularity on Exhibit "A" attached hereto and incorporated herein by this reference is hereby submitted to the terms, covenants and conditions of, is hereby made subject to, and shall be governed and regulated by this Declaration. In addition:

The Land is SUBJECT TO the described easements and rights of way, TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to,

or accompanying the above-described parcel of real property.

ALL OF THE FOREGOING IS SUBJECT TO: All liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all Patent reservation and exclusions; any mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described Tract or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible and necessary easements and rights-of-way; all easements and rights-of-way of record; any easements, rights of-way, encroachments, or discrepancies shown on or revealed by the Plat Maps or otherwise existing; an easement for each and every common area improvement, equipment, pipes, lines, cables, wires, utility systems, or similar facilities which traverse or partially occupy the above-described Tract; and all easements necessary for servicing, repairing, ingress to, egress from, maintenance of, and replacement of all such common area improvements, equipment, pipes, lines, cables, wires, utility systems, and similar facilities.

III. COVENANTS, CONDITIONS, AND RESTRICTIONS

The foregoing submission is made upon and under the following covenants, conditions, and restrictions:

1. Description of Improvements. The significant improvements in the Project include, or shall include, sixty-six (66) Lots, upon which thirty-three (33) Buildings shall be constructed, providing a total of up to sixty-six (66) Dwelling Units, together with certain Common Area and Facilities, improvements consisting of certain common grounds, green space and landscaping, a gazebo or gazebos, walking path or paths, patio slabs, entry monument, fences, streets, private drives, walkways, parking spaces and utilities. The Project will also contain other improvements of a less significant nature. The Buildings will be composed of the following construction materials: wood frame with load and non-load bearing walls studded with wood; basement walls and floors of concrete; two by four (2 x 4) stud walls; wood truss floor joists, prefabricated wood truss roof with asphalt shingles; floor surface of gypcrete over plywood subfloor; interior walls of sheet rock or wall board, and exterior walls of stucco.
2. Description and Legal Status of the Property. The Lots shall be individually owned and the Common Area shall be owned by the Association.
3. Membership in the Association. Membership in the Association is appurtenant to the ownership of a Lot, and may not be partitioned therefrom.
4. Conveyancing. Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering a Lot shall describe the interest or estate involved substantially as follows:

All of LOT NO. _____ in BUILDING NO. _____ contained within the COLDWATER CREEK PLANNED UNIT DEVELOPMENT, as the same is identified in the Record of Plat Map recorded in the Office Records of Weber County, Utah on the ___ day of _____, 1999 as Entry No. _____, in Book _____, at Page _____ (as said Record of Plat Map may have heretofore been amended or supplemented) and the Declaration of Covenants, Conditions and Restrictions of the COLDWATER CREEK PLANNED UNIT DEVELOPMENT, recorded on the ___ day of _____, 1999, as Entry No. _____, in Book _____, at Page _____ of the Official Records of Weber County, Utah (as said Declaration may have heretofore been amended or supplemented), together with an appurtenant membership interest in and to the Association.

Regardless of whether or not the description employed in any such instrument is in the above-specified form, 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. Neither the membership in the Association, nor the right of non-exclusive use of a Common Area shall be separated from the Lot to which it appertains; and, even though not specifically mentioned in the instrument of transfer, such mandatory membership in the Association and such right of exclusive use shall automatically accompany the transfer of the Lot to which they relate.

5. Ownership and Use. Each Owner shall be entitled to the exclusive ownership and possession of his Lot and to membership in the Association as set forth herein, subject, however, to the following:

a) Nature and Restrictions on Ownership and Use in General. Each Owner shall have and enjoy the privileges of fee simple Ownership of his Lot. There shall be no requirements concerning who may own a Lot, it being intended that they may and shall be owned as any other property rights by persons. This is a residential community and as such the Lots shall be used only for residential purposes, except as expressly set forth below, and the Common Areas shall only be used in a manner consistent with the residential nature of the Project.

b) Title to the Common Area. The Common Area, described with particularity in Exhibit "D" which is attached hereto and incorporated herein by this reference, shall be owned by the Association.

c) Mandatory Association. Each purchaser of a Lot shall upon acceptance of a deed or other conveyance of title automatically become a member of the Association.

d) Joint or Common Utility Easements with Neighboring Subdivisions, Project or Developments. The Declarant, for itself and its successors in interest (including but not limited to the Association), hereby reserves the irrevocable and exclusive right, without any additional consent required, to enter into easement agreements with or to convey to the owners or developers of adjoining subdivisions, projects or developments any and all reasonable and necessary utility easements or rights of way for gas, water, power, sewer, storm drain systems or the like under, over, across or through the

Project.

e) Member's Easements and Rights of Way. Every Member of the Association shall as an Owner have the right and non-exclusive easement to use and enjoy the Common Area. Such right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following restrictions:

- (1) The right of the Association to limit the number of guests and residents;
- (2) The right of the Association to suspend the voting privilege; and

(3) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for the purpose of regulating transportation, maintaining the roadways or providing utilities and other similar or related purposes. During the Developer's period of development of the Project, any such dedication or transfer shall be effective only if approved in writing by the Declarant.

f) Rules and Regulations. The Management Committee, shall have the power and authority to adopt, amend or repeal administrative rules and regulations, and architectural guidelines, from time to time.

g) Restrictions and Limitations of Use. The use of the Property, including without limitation the Lots, is subject to the following restrictions:

(1) Parties Bound. The Project Documents shall be binding upon all Owners and residents, their family members, guests and invitees by virtue of their accepting a deed or other document of conveyance, or possession of, or entering upon a Lot or the Project.

(2) Nuisance. It shall be the responsibility of each Owner and resident to prevent the creation or maintenance of a nuisance in, on or about the Project. For purposes of this section a "nuisance" includes but is not limited to the following:

a. The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Lot or the Common Areas;

b. The storage of any item, property or thing that will cause any Lot or the Common Area to appear to be in an unclean or untidy condition or that will be noxious to the senses;

c. The storage of any substance, thing or material upon any Lot or in the Common Areas that will emit any foul, unpleasant or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Project;

d. The creation or maintenance of any noxious or offensive condition or activity in or about any Lot or the Common Areas;

e. Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other residents, their guests or invitees, particularly if the police or sheriff must be called to restore order;

f. Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Project by other residents, their guests or invitees;

g. Creating or allowing an unreasonable amount of noise in, on or about any Lot or the Common Area, especially after 10:00 p.m. and before 7:00 a.m.; and

h. Creating or allowing an unreasonable amount of traffic in, on or about any Lot or the Common Area, especially after 10:00 p.m. and before 7:00 a.m.

(3) Unsightly Work, Hobbies or Unkempt Condition. The pursuit of hobbies or other activities, which cause or are likely to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Project.

(4) Removing Garbage, Dust & Debris. No rubbish, trash, refuse, waste, dust, debris or garbage (hereinafter the "garbage") shall be allowed to accumulate so as to become a nuisance. During the week, all garbage shall be placed into plastic bags or other acceptable receptacles and deposited into designated garbage cans or dumpsters; individual garbage cans shall not be placed or stored so as to be visible from the street, other Dwelling Units or the Common Area except on garbage pick-up day; and on garbage pick-up days, garbage cans shall not be left out in the designated garbage can pick-up area for a period longer than twenty-four (24) consecutive hours.

(5) Subdivision of a Lot. No Lot shall be subdivided or partitioned.

(6) Firearms, Incendiary Devices and Graffiti. The use of firearms and incendiary devices, or the painting of 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.

(7) Temporary Structures. No Owner or resident shall place upon any part of the Project any temporary structures including but not limited to tents, trailers, or sheds, without the prior written consent of the Committee. Anything to the contrary notwithstanding and until the expiration of the Period of Declarant's Control, the Developer may install and use temporary structures in the development of the Project and marketing of the Lots or Units.

(8) Parking Pads. No parking pads (e.g., cement, concrete, asphalt or of any other material) may be constructed for recreational, commercial or oversized vehicles of any kind.

(9) Trees, Shrubs and Bushes; Maintenance of Proper Sight Distance at Intersections. The 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. No fence, wall, hedge, shrub, bush, tree or monument, real or artificial, shall be planted or placed by any Owner or resident in, on or about the Common Areas without the prior written consent of the Management Committee. The Management Committee may alter or remove any objects planted or placed in violation of this subsection.

(10) 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 the Committee.

(11) Business Use. No commercial trade or business may be conducted in or from any Lot unless: a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the residence; b) the business activity conforms to all zoning requirements for the Project; c) 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 d) 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.

(12) Garages; Storage and Parking of Motor Vehicles. Each Dwelling Unit constructed upon a Lot shall contain a garage. The driving, parking, standing and storing of motor vehicles in, on or about the Project shall be subject to the following:

a. Any traffic and parking rules and regulations as may be adopted by the Management Committee from time to time;

b. Except for purposes of loading or unloading passengers or supplies (for a period of time not to exceed twenty-four (24) hours), no recreational, commercial or oversized vehicle parking is allowed anywhere in the Project at any time or for any reason; thus, all recreational, commercial and oversized vehicles must be parked or stored outside of the Project;

c. No overnight parking is allowed on the streets or rights of way within the Project.

d. No motor vehicle or trailer, including but not limited to any car, automobile, truck, van, minivan, or any other transportation device of any kind may be parked or stationed in such a manner so as to block access to any Lot, structure, building, or driveway, or so as to create an obstacle or potentially dangerous condition;

e. Overnight, Residents may only park their motor vehicles within their garages or in their driveways.

e. No resident shall repair or restore any vehicle of any kind in, on or about any Lot or the Common Area, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.

f. Since the garages must be used primarily for the parking and storage of vehicles, 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 reasonably parked in the garage as originally designed and constructed. Garage doors shall remain closed except when the garage is in use.

g. By driving a motor vehicle into the Project, each vehicle owner and driver is deemed to have consented to be bound by and subject to this section.

h. A motor vehicle parked in violation of this Declaration or any administrative parking rules and regulations which may be adopted by the Committee from time to time, may be immobilized, impounded or towed by the Management Committee, without further notice, and at the Owner's sole risk and expense.

(13) Antennas and Satellite Dishes. Antennas and satellite dishes shall be prohibited within the Property, except (a) antennas or satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter; (b) antennas or satellite dishes designed to receive video programming services via multipoint distribution services which are one meter or less in diameter or diagonal measurement; or (c) antennas or satellite dishes designed to receive television broadcast signals ("Permitted Devices") shall be permitted, provided that any such Permitted Device is:

(1) located in the attic, crawl space, garage, or other interior spaces of the dwelling or another approved structure on the Unit, so as not to be visible from outside the dwelling or other structure;

2) located in the rear yard of the dwelling (i.e., the area between the plane formed by the front facade of the dwelling and the rear lot line) and setback from all lot lines at least eight (8) feet;

(3) attached to or mounted on a deck or patio and extending no higher than the eaves of that portion of the roof of the dwelling directly in front of such antenna;

(4) attached to or mounted on the rear wall of the dwelling so as to extend no higher than the eaves of the dwelling at a point directly above the position where attached or mounted to the wall.

Notwithstanding the foregoing, should an Owner determine that a Permitted Device cannot be located in compliance with the above guidelines without precluding reception of an acceptable quality signal, then the Owner may install the device in the least conspicuous alternative location on the Unit where an acceptable quality signal can be obtained. The Board may adopt rules establishing a preferred hierarchy of alternative locations and requiring screening of all Permitted Devices, so long as such rules do not unreasonably increase the cost of installation, maintenance, or use of the Permitted Device.

(14) Windows and Window Coverings. No-aluminum foil, newspapers, reflective film coatings, or any other similar materials may be used to cover the exterior windows of any Dwelling Unit or garage. Sun shades and tinted windows are allowed subject to the approval of the Management Committee. All windows and window panes in the Project shall be harmonious, and comparable in size, design and quality, so as not to detract from uniformity in appearance and construction.

(15) Pets. No more than two (2) pets may be kept on any single Lot unless a variance is granted in writing by the Management Committee. Each Resident with a pet or pets at his Dwelling Unit or within the Project shall abide strictly by the letter and spirit of any pet rules and regulations adopted by the Committee from time to time. No pets, animals, livestock or poultry of any kind shall be bred in, on or about the Project. Owners and Residents shall clean up immediately after their pets. Pets outside the Dwelling Unit shall be in a fenced yard or kept on a leash or in a cage at all times and under the control of a responsible person. Pets which constitute a nuisance in the opinion of the Committee (e.g., dogs running loose about the Project and without a leash or in a cage and not under the control of a responsible person, dogs not immediately cleaned up after, barking, whining, howling, scratching, etc.) will not be tolerated in the Project and shall be permanently removed from the Project no later than ten (10) days after written notice to do so is sent by the Committee.

(16) Insurance. Nothing shall be done or kept in, on or about any Lot or the Common Area which may result in the cancellation of the insurance on the Property or an increase in the rate of the insurance on the Project over what the Management Committee, but for such activity, would pay.

(17) Laws. Nothing shall be done or kept in, on or about any Lot or Common Area, 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.

(18) Damage or Waste. No damage to, or waste of, the Common Area shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Management Committee and the other Owners harmless against all loss resulting from any such damage or waste caused by that Owner or an invitee; provided, however, that any invitee of the Declarant shall not under any circumstances be deemed to be an invitee or any other Owner.

(19) Structural Alterations. No structural alterations to the Common Area

or Facilities are allowed without the prior written consent of the Management Committee.

(20) BBQ, Patio Table and Chairs. Each Lot Owner or resident may have one BBQ, one outdoor table and set of chairs outside, provided they are located exclusively within the confines of his cement pad or patio and are maintained in a clean, tidy and neat manner. Each Lot Owner or resident shall use his best efforts to keep such personal property so it is not visible from the street, the Common Area or another Lot. Bicycles, tricycles, motorcycles, household furniture and furnishings, equipment, machinery, tools, supplies, boxes, storage containers or other items of personal property may not be stored in, on or about the cement pad, patio or deck area, in the Limited Common Area, or in any manner so as to be visible from the Common Area, street or another Lot.

6. Leases. Any agreement for the leasing, rental or occupancy of a Unit (hereinafter referred to collectively as the "lease") shall be in writing and a copy thereof shall, within five (5) days after it is requested, be delivered to the Management Committee. By virtue of an Owner accepting a deed or other document of conveyance to a Lot and a tenant taking possession of a Dwelling Unit, every lease shall be deemed to include a provision that the terms of such lease are subject in all respects to the terms, covenants, conditions and restrictions set forth in the Project Documents and that any failure by the residents to comply with the terms thereof shall be and constitute a material default under the lease. Any Owner leasing his Unit shall be responsible for assuring compliance by the residents with the Project Documents. No Owner shall be permitted to lease his Unit for transient, short-term, hotel, seasonal, vacation, corporate or executive use purposes, which shall be deemed to be any lease with an initial term of less than six (6) months. Daily or weekly rentals are prohibited. No Owner may lease individual rooms to separate persons or less than his entire Unit. The Management Committee may require a Unit Owner to use the Association's lease agreement form. Other than as stated in this Section, there is no restriction on the right of any Owner to lease or otherwise grant occupancy rights to a Unit.

7. Easements: Drainage, Support, Maintenance and Repair. The following easements and rights of way are hereby RESERVED for and GRANTED to the Association:

a) A non-exclusive easement over, across, through, above and under the Lots and the Common Area for the operation, maintenance and regulation of the Common Area, amenities and facilities; and

b) A reciprocal easement on, over, under, through and across all Lots and Common Area for the drainage of surface waters on, over, under, through and across the Project. The Declarant shall establish a subdrain and storm drainage system designed to serve the entire Project (the "Master Subdrain and Storm Drain System"). No Lot Owner shall interfere with the Master Subdrain and Storm Drain System established by the Declarant, or its successors or assigns. Each Lot Owner shall be responsible to develop his Lot in a manner consistent with the Master Subdrain and Storm Drain System, and so as not to detract therefrom or interfere therewith, or the Established Drainage Pattern on any other Lot in the Project. No changes to the Established Drainage Pattern on any Lot shall be permitted without the prior written consent of the Management Committee. For purposes of this Section, the term "Established Drainage Pattern" is defined as the approved drainage

pattern, facilities and improvements in existence at the time such Lot is conveyed to a home purchaser by the Declarant, its successor or assign. The cost of all improvements, maintenance, repairs and replacements of the subdrain and storm drainage system located in the Common Area shall be the responsibility of the Association.

8. Liability of Owners and Residents For Damages. Any Owner or resident shall be liable to the Association or other Owners or Residents for damages to person or property in the Community caused by his negligence.

9. Encroachments. In the event that any portion of the Common Area, a Lot, Building or Dwelling Unit encroaches or comes to encroach upon other Common Area or another Lot, Building or Dwelling Unit as a result of construction, reconstruction, repair, shifting, settling, or movement, an easement for such encroachment is created hereby and shall exist so long as such encroachment exists.

10. Management Committee. The Association shall be managed by a Management Committee, which shall be comprised of three (3) members. Until the expiration of the Period of Declarant's Control, the Declarant shall have the exclusive and irrevocable right to appoint all of the Members of the Committee and their successors or replacements. At the first Annual Homeowners Meeting after the expiration of the Period of Declarant's Control, the Members of the Committee shall be elected by the Owners, two (2) of which shall be elected for two (2) year terms and the remaining Member shall be elected for a one (1) year term; thereafter, all Members shall be elected for two (2) year terms.

11. Status and General Authority of Committee. Any instrument executed by the Management Committee that recites facts which, if true, would establish the Committee's power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument. The Association shall, in connection with its exercise of any of the powers delineated below, constitute a legal entity capable of dealing in its Committee name. The Management Committee shall have, and is hereby granted, the following authority and powers:

a) To Enter. The power and authority to enter into or upon any Lot to make repairs and to do other work reasonably necessary for the proper maintenance and operation of the Project. Except in the case of an emergency, reasonable notice shall be given to the residents.

b) Grant Easements. 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 Common Areas for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance, operation or regulation of the Project.

c) Execute Documents. The authority to execute and record, on behalf of all Owners, any amendment to the Declaration or Plat Map which has been approved by the vote or

consent necessary to authorize such amendment.

- d) Standing. The power to sue and be sued.
- e) Enter Into Contracts. The authority to enter into contracts which in any way concern the Project, so long as any vote or consent necessitated by the subject matter of the agreement has been obtained.
- f) Transfer Interests in Real Property. The power and authority to exchange, convey or transfer any interest in real property, so long as it has been approved by at least Seventy five percent (75%) of the members in the Association.
- g) To Purchase. The power and authority to purchase, otherwise acquire, and accept title to, any interest in real property, so long as it has been approved by at least Seventy five percent (75%) of the members in the Association.
- h) To Add Property. The power and authority to add any real property, or interest therein, obtained pursuant to subparagraph (g) above to the Project, so long as it has been approved by at least Seventy five (75%) of the members in the Association.
- i) Promulgate Rules. The authority to promulgate such reasonable administrative guidelines, rules, regulations, and procedures as may be necessary or desirable to aid the committee in carrying out any of its functions or to insure that the Project is maintained and used in a manner consistent with this Declaration.
- j) Meetings. The authority to establish procedures for the conduct of its meetings, including but not limited to the power to decide what portion of the meeting shall be open or closed to Members of the Association or residents not on the Committee, to retire to executive session, to regulate record keeping, and to allow, control or prohibit the electronic reproduction (video or audio) of Committee meetings.
- k) Borrow Money. The power and authority to borrow money and pledge assets of the Association, so long as it has been approved by at least Seventy five (75%) of the members in the Association.
- l) User's Fees. The power and authority to charge a user's fee or rent for common facilities.
- m) All other Acts. 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 Management Committee to perform its functions on behalf of the Owners.

12. Delegation of Management Responsibilities. The Committee may delegate some of its management responsibilities to either a professional management company, an experienced on-site

manager, independent contractors, through service contracts, or any combination thereof. The termination provision of any such contract must not require a termination penalty or any advance notice of more than thirty (30) days, no such contract shall be for a term greater than one (1) year.

13. Classes of Membership & Voting Allocations. The Association shall have two (2) classes of membership -- Class A and Class B, described more particularly as follows:

a) Class A. Class A Members shall be all Owners with the exception of the Class B Members, if any. Class A Members shall be entitled to vote on all issues before the Association, subject to the following:

(1) One Vote. Each Lot shall have one (1) vote;

(2) Subject To Assessment. No vote shall be cast or counted for any Lot not subject to assessment;

(3) Multiple Owners. When more than one (1) person or entity holds such interest in a Lot, the vote for such Lot shall be exercised as those persons or entities themselves determine and advise the Secretary of the Association prior to any meeting. In the absence of such advice, the vote of the Lot shall be suspended in the event more than one (1) person or entity seeks to exercise it.

(4) Leased Lot. Any Owner of a Lot which has been leased may, in the lease or other written instrument, assign the voting right appurtenant to that Lot to the lessee, provided that a copy of such instrument is furnished to the Secretary at least three (3) days prior to any meeting.

b) Class B. Class B Member shall be the Declarant and any successor of Declarant who takes title for the purpose of development and sale of Lots, and who is designated as such in a recorded instrument executed by Declarant. The Class B Member shall originally be entitled to five (5) votes per Lot owned. The Class B membership and the Class B Control Period shall terminate, and Class B membership shall convert to Class A membership upon the termination of the Period of Declarant's Control.

From and after the termination of the Period of Declarant's Control, the Class B Member shall be deemed to be a Class A Member entitled to one (1) vote for each Lot owned. At such time, the Declarant shall call a meeting, in the manner described in the By Laws of the Association for special meetings, to advise the membership of the termination of Class B status and, if it has not already occurred, to schedule transition of the operation and management of the entire Project to the Association.

14. Lists of Lot Owners, Eligible Mortgagees, and Eligible Insurers or Guarantors. The Committee shall maintain up-to-date records showing: (a) the name of each person who is an Owner, the address of such person, and the Lot which is owned by him or her; (b) the name of each person or entity who is an Eligible Mortgagee, the address of such person or entity, and the Lot which is encumbered by the Mortgage held by such person or entity; and (c) the name of each person or entity who is an Eligible Insurer or Guarantor, the address of such person or entity, and the Lot which is encumbered by the Mortgage insured or guaranteed by such person or entity. In the event of any transfer of a fee or undivided fee interest in a Lot, either the transferor or transferee shall furnish the Committee with evidence establishing that the transfer has occurred and that the Deed or other instrument accomplishing the transfer is of record in the office of the County Recorder of Weber County, Utah. The Committee may for all purposes act and rely on the information concerning Lot ownership in its records or, at its option, the records of the county recorder. The address of any Owner shall be deemed to be the address of the Lot owned by such person unless the Committee is otherwise advised in writing.

15. Capital Improvements and Table. The Management Committee shall prepare a Table of Capital Improvement, which shall contain a list of foreseeable expenditures for capital improvements within the Area of Common Responsibility (as defined in paragraph 16 (a) below). The Table shall be included in every annual budget, and it shall be reviewed and updated at least annually, and reasonable reserve accounts shall be established by the Committee for the replacement of capital assets as they age. Expenditures by the Association for capital improvements to the Project shall be subject to and governed by the following:

a) Committee Discretion/Expenditure Limit. Capital improvements to the Project, which cost ten percent (10%) or less of the Total Annual Operations Budget and do not materially alter the nature of the Project, may be authorized by the Management Committee alone.

b) Homeowner Approval/Expenditure Limit. Any capital improvement, the cost of which will exceed such amount, must, prior to the commencement of construction, be authorized by at least a majority of the Owners.

c) Homeowner Approval/Changing the Nature of the Project. Any capital improvement, which would materially alter the nature of the Project, must, regardless of its cost and prior to being constructed or accomplished, be authorized by at least sixty-seven percent (67%) of the undivided ownership interest in the Project.

16. Operation, Maintenance and Alterations. The Lots and Common Area shall be maintained by the Lot Owners and the Association as follows:

a) Area of Common Responsibility. The Association shall maintain, repair and replace, as needed from time to time, the following:

1) All Common Areas and Facilities as well as all improvements constructed or installed thereon;

2) All landscaping, green space, sprinkler systems, sprinkler controls, heads and water distribution lines, grass, sod, berms, flower and plant beds, ground cover, trees, shrubs and bushes; this includes but is not limited to all planting, pruning and care of the plant life, grass, sod, edging and mowing, in, on or about the Common Area and the Lots (hereinafter referred to collectively as "landscaping"), except that landscaping enclosed in any Private Yard Area enclosed by an approved fence which shall be the responsibility of the Lot Owner;

3) All perimeter, interior and sideyard fences or walls within the Project and between the Lots;

4) The entryway or ways into the Project as well as all undedicated streets, sidewalks, curbs, gutters and street lighting;

5) All central or common utility systems for power, light, water, sewer, garbage removal, central park and storm water detention area as well as all exterior light fixtures, including the replacing of the light bulbs in said fixtures;

6) The roofs, stucco and exterior surfaces of the Buildings;

7) All driveways, sidewalks and entryways leading to and serving a Building; and

8) All items not expressly included in the Area of Personal Responsibility.

b) Area of Personal Responsibility. Each Owner shall maintain the following:

1) His Dwelling Unit and garage, including but not limited to the foundation, footings, columns, girders, beams, supports and main walls thereof;

2) All utility services servicing his Lot and Dwelling Unit, such as power, light, gas, hot and cold water, heating, refrigeration and air conditioning systems;

3) All interior fixtures, furnishings, windows, doors, patios, balconies and decks, garage doors and garage door systems located in his Lot or Dwelling Unit;

4) All interior fence surfaces within the boundaries of his Lot;

5) All Private Yard Area landscaping contained within a Lot and the boundaries of an approved fence, including the sprinkling system, sprinkler controls, heads and distribution lines within the Private Yard Area.

6) All of the other non-landscaping improvements constructed or installed thereon or located in, on, under or above a Lot, unless otherwise determined in writing by the

Management Committee.

c) Snow and Ice Accumulations. The following persons are responsible to remove snow and ice accumulations:

Dedicated Streets	City of North Ogden
Private Streets	Association
Common Area	Association
Lots	Unit Owners

d) Trash Receptacles. Each Owner shall make his garbage can or receptacle available for pick up on the designated day each week; however, trash receptacles may not be left so as to be visible from any street or drive for a period in excess of twenty-four (24) hours, and when not placed on the street or drive for pick up garbage cans or receptacles shall be located in a place not visible from the street, drive, common area or another Dwelling Unit.

e) Standard of Care - Generally. The Property shall be maintained in a usable, clean, functional, safe, healthy, sanitary, attractive, and good condition, consistent with Community Standards.

f) Standard of Care - Landscaping. All landscaping in the Project shall be maintained and cared for in a manner consistent with Community Standards and the quality of design and construction originally established by Declarant. Specific guidelines and restrictions on landscaping may be established by the Management Committee from time to time. All landscaping shall be maintained in a neat and orderly condition. Any weeds or diseased or dead lawn, trees, ground cover or shrubbery shall be removed and replaced. All lawn areas shall be neatly mowed and trees, shrubs and bushes shall be properly pruned and trimmed. In a word, all landscaping shall be tasteful, so as not to affect adversely the value or use of any other Lot, or to detract from the uniform design and appearance of the Project.

g) Neglect. If the Committee determines that any Owner has failed or refused to discharge properly his obligation with regard to the maintenance, repair, or replacement of items for which he is responsible hereunder; or that the need for maintenance, repair, or replacement of the Common Area is caused through the willful or negligent act of any Owner, his family, guests, lessees, or invitees, and it is not covered or paid by insurance, in whole or in part, then the Association may, but is not obligated to, provide such maintenance, repair or replacement at the Owner's sole cost and expense, subject to the following:

(1) Assessment. Such costs as are incurred by the Association in the performance of an item included in the Area of Personal Responsibility shall be added to and become a part of the assessment to which such Owner and Lot is subject, and shall be secured by a lien against his Lot regardless of whether a notice of lien is filed.

(2) Notice of Intent to Repair. Except in an emergency situation, the Association shall give the Owner written notice of the Association's intent to provide necessary

maintenance, repair, or replacement at Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Committee. The Owner shall have ten (10) days after receipt of notice within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten (10) days.

(3) Emergency Situation. If the Committee determines that an emergency exists, then notice and the opportunity to cure the default is not necessary.

(4) Optional Repairs. The Association may, but is not obligated to, provide any such maintenance, repair, or replacement in the manner described above.

(5) Right of Entry. The Association or its agents or employees shall have a right to entry upon or into any Lot or Common Area as necessary to perform such work and shall not be liable for trespass for such entry or work.

h) Changes to Areas of Personal or Common Responsibility. The Management Committee may, in its sole discretion, add items to or subtract items from the Areas of Personal or Common Responsibility upon at least thirty (30) days prior written notice to the Lot Owners.

i) Alterations to the Common Area. Anything to the contrary notwithstanding and until the expiration of the Period of Declarant's Control, the Declarant may make changes to the Common Area without the consent of either the Association or the Management Committee; provided, however, no Owner or resident may at any time modify the drainage patterns or systems, landscaping, or make any structural alterations, modifications, changes or improvements to the Common Area or Facilities, including but not limited to the construction or installation of any additions, the extension or enclosure of any existing structures (e.g., fencing, decks, patios, walkways or sheds, etc.) not shown on the approved plans and specifications, without the prior written consent of the Management Committee.

17. Common Expenses. Each Owner, upon receipt of a deed to a Lot, shall pay his Assessments subject to and in accordance with the restrictions set forth below; provided, however, anything to the contrary notwithstanding, the Declarant shall not be obligated to pay Assessments until such time as any residential structure, building or dwelling unit is substantially complete and a permanent certificate of occupancy has been issued or, in the alternative, the Declarant elects in writing to commence payment, whichever first occurs.

a) Purpose of Common Expenses. The Assessments provided for herein shall be used for the general purpose of operating the Project, promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and residents, including the maintenance of any real and personal property owned by the Association, and regulating the Community, all as may be more specifically authorized from time to time by the Committee.

b) Creation of Assessments. The Assessments shall pay for the common expenses

of the Association as may be from time to time specifically authorized by the Management Committee. Each Owner, by acceptance of a deed or other document of conveyance to a Lot, whether or not it shall be so expressed in such deed or document, covenants and agrees to pay to the Association in a timely manner all Assessments imposed.

c) Budget. At least thirty (30) days prior to the Annual Homeowners Meeting, the Management Committee shall prepare and deliver to the Owners a proposed Budget which:

(1) Itemization. Shall set forth an itemization of the anticipated Common Expenses and accumulation of reserves for the twelve (12) month calendar year, commencing with the following January 1.

(2) Basis. Shall be based upon advance estimates of cash requirements by the Management Committee to provide for the payment of all estimated Common Expenses growing out of or connected with the maintenance and operation of the Common Areas and the Association.

d) Apportionment. The common profits of the property shall be distributed among, the common expenses shall be charged and voting rights shall be allocated to the Lot Owners equally pursuant to Exhibit "B" attached.

e) Approval of Budget and Assessments. The proposed Budget and the Assessments shall become effective unless disapproved at the Annual Meeting by a vote of at least a majority of the Owners. Notwithstanding the foregoing, however, if the membership disapproves the proposed budget and Assessments or the Management Committee fails for any reason to establish the Budget and Assessments for the succeeding year, then and until such time as a new budget and new Assessment schedule shall have been established, the Budget and the Assessments in affect for the then current year shall continue for the succeeding year.

f) Payment of Assessments. The Management Committee has the sole authority and discretion to determine how and when the annual Assessments are paid.

g) Personal Obligation of Owner. Owners are liable to pay all Assessments assessed, accruing interest, late Assessments and collection costs, including attorneys fees. Provided, however, no first mortgagee or beneficiary under a first deed of trust (but not the Seller under an executory contract of sale such as a uniform real estate contract, land sales contract, or other similar instrument), who obtains title to a Lot pursuant to the remedies provided in the mortgage or trust deed shall be liable for unpaid Assessments which accrued prior to the acquisition of title. For purposes of this Section, the term "Owner" shall mean and refer jointly and severally to: (1) the Owner of both the legal and equitable interest in any Lot, (2) the owner of record in the offices of the County Recorder of Weber County, Utah, and (3) both the Buyer and Seller under any executory sales contract or other similar instrument.

h) Equitable Changes. If the aggregate of all monthly payments on all of the Lots is too large or too small as a result of unanticipated income or expenses, the Committee may from time

to time effect an equitable change in the amount of said payments. Owners shall be given at least thirty (30) days written notice of any changes.

i) Dates and Manner of Payments. The dates and manner of payment shall be determined by the Committee.

j) Reserve Accounts. The Committee shall establish and maintain at least two (2) reserve accounts: one to pay for unexpected operating expenses and the other to pay for capital improvements. The reserve accounts shall be funded out of regular Assessments.

k) Acceleration. Assessments shall be paid in the manner and on dates fixed by the Committee who may, at its option and in its sole discretion, elect to accelerate the entire annual Assessment for delinquent Owners. If, however, the annual Assessment is accelerated and an Owner subsequently files bankruptcy or the Committee otherwise decides acceleration is not in its best interest, the committee, at its option and in its sole discretion, may elect to decelerate the obligation.

l) Statement of Assessments Due. Upon written request, the Committee shall furnish to any Owner a statement of Assessments due, if any, on his Lot. Failure to provide the certificate within ten (10) days after a written request, shall be deemed conclusive evidence that all Assessments are paid current. The Association may require the advance payment of a processing charge not to exceed \$15.00 for the issuance of such certificate.

m) Superiority of Assessments. All Assessments and liens created to secure the obligation to pay Assessments are superior to any homestead exemptions to which an Owner may be entitled.

n) Termination of Utility Service. At the discretion of the Committee, the utility service to any Owner paid for by Assessments may be terminated if the Owner is in arrears on his obligation to pay Assessments and has failed to cure or make satisfactory arrangements to cure the default after reasonable notice of at least ten (10) days.

o) Suspension of Right to Vote for Non-Payment. At the discretion of the Committee, the right of an Owner to vote on issues concerning the Association may be suspended if the Owner is delinquent in the payment of his Assessments, and has failed to cure or make satisfactory arrangements to cure the default after reasonable notice of at least ten (10) days.

18. Special Assessments. In addition to the other Assessments authorized herein, the Association may levy special assessments in any year, subject to the following:

a) Committee Based Assessment. So long as the special assessment does not exceed the sum of Five Hundred and 00/100ths Dollars (\$500.00) (the "Special Assessment Limit") per Lot in any one fiscal year, the Committee may impose the special assessment without any additional approval.

b) Association Approval. Any special assessment, which would exceed the Special Assessment Limit, shall be effective only if approved by a majority of the members of the Association.

c) Payment of Special Assessments in Installments. The Committee in its discretion may allow any special assessment to be paid in installments.

19. Specific Assessments. If the Unit Owner has the choice to accept or reject the benefit, the Management Committee shall also have the power specifically to assess the Owners in a particular area pursuant to this Section as, in its discretion, it shall deem necessary or appropriate, as follows:

a) Benefit only To Specific Lot. If the expense benefits less than all of the Lots, then those Lots benefited may be specifically assessed, and the specific assessment shall be equitably apportioned among those Lots according to the benefit received.

b) Unequal or Disproportionate Benefit. If the expense benefits all Lots, but does not provide an equal benefit to all Lots, then all Lots shall be specifically assessed, but the specific assessment shall be equitably apportioned among all Lots according to the benefit received.

Failure of the Committee to exercise its authority under this Section shall not be grounds for any action against the Association or the Committee and shall not constitute a waiver of the Committee's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Committee has not previously exercised its authority under this Section.

20. Individual Assessments. Individual Assessments shall be levied by the Committee against a Lot and its Owner to charge, impose, pay, compensate and/or reimburse the Association for:

a) fines levied and costs incurred in enforcing the Project Documents;

b) costs associated with the maintenance, repair or replacement of Common Area damaged by an Owner or resident or which falls within the Area of Personal Responsibility as defined above;

c) any other charge, fee, due, expense, or cost designated as an Individual Assessment in the Project Documents; and

d) Additional charges as provided for in this Declaration.

21. Collection of Assessments. The following restrictions apply to the collection of Assessments:

a) Time is of the Essence. Time is of the essence and all Assessments shall be paid promptly when due.

b) Delinquent Assessments. Any Assessments which are not paid when due are delinquent and a lien against the Lot affected shall attach automatically, and are effective the date of recording.

c) Late Fees and Default Interest. Any Assessments delinquent for a period of more than ten (10) days shall incur a late charge of twenty five dollars (\$25.00) or five percent (5%) of the delinquent amount, whichever is greater. Default interest at the rate of one and ½ percent (1.5%) per month shall accrue on all delinquent accounts.

d) Notice of Lien. 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 manager or Management Committee it 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 Unit 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.

e) Foreclosure of Lien and/or Collection Action. If any Assessments remain unpaid, the Association may, as determined by the Committee, institute suit to collect the amounts due and/or to foreclose the lien.

f) Personal Obligation. Each Owner, by acceptance of a deed or as a party to any other type of conveyance, vests in the Association or its agents the right and power to bring all actions against him or her 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.

g) No Waiver. No Owner may waive or otherwise exempt himself or herself from liability for the Assessments provided for herein, including but not limited to the non-use of Common Areas or the abandonment of his Lot.

h) Duty to Pay Independent. No reduction or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association or Committee to take some action or perform some function required to be taken or performed by the Association or committee under this Declaration or the By Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, 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.

i) Application of Payments. All payments shall be applied as follows: Default Interest, Late Fees, Additional Charges, Delinquent Assessments and Current Assessments.

j) Foreclosure of Lien as Mortgage or Trust Deed. The lien for nonpayment of Assessments may be enforced by sale or foreclosure of the Owner's interest therein by the Committee. 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 Assessments, and a reasonable rental for the Lot during the pendency of the foreclosure action. The Association 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 Committee may bid for the Lot at foreclosure or other sale and hold, lease, mortgage, or convey the same.

k) Appointment of Trustee. If the Committee 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 Association, 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.

l) Attorney in Fact. Each Owner by accepting a deed or other document of conveyance to a Lot hereby irrevocably appoints the Association 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 Association, 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 Association.

22. Liability of Management Committee. The Association shall indemnify every officer and member of the Committee against any and all expenses, including but not limited to attorney's fees reasonably incurred by or imposed upon any officer or member of the Committee in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Committee) to which he or she may be a party by reason of being or having been an officer or member of the Committee. The officers and members of the Committee shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and members of the Committee shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or members of the Committee may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and member of the Committee free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall be exclusive of any other rights to which any officer or member of the Committee, or former officer or member of the Committee, may be entitled. The Association shall, as a common expense, maintain adequate general liability, officer's, and director's insurance coverage to fund this obligation, if such insurance is reasonably available.

23. Insurance. The Management Committee shall at all times purchase, maintain in force,

and pay the premiums for, if reasonably available, insurance on the Common Areas satisfying at least the following requirements:

a) Property Insurance. Blanket property insurance using the standard "Special" or "All-Risk" building form. Loss adjustment shall be based upon replacement cost. For purposes of this sub-section, the term "casualty insurance" shall not mean or refer to "earthquake" or other special risks not included in the standard P. U. D. Casualty policy. This additional coverage may be added by the Committee as it deems necessary in its best judgment and in its sole discretion.

b) Liability Insurance. Liability insurance with adequate limits of liability for bodily injury and property damage, consistent with that of similarly situated first class subdivisions in the county. If possible, the policy should be written on the comprehensive form and shall include not-owned and hired automobile liability protection.

c) Director's and Officer's Insurance. Adequate director's and officer's liability insurance (aka Errors and omissions insurance).

d) Fidelity Bond. A separate fidelity bond in a reasonable amount to be determined by the Management Committee to cover all non-compensated officers as well as all employees for theft of Association funds, subject to the following:

(1) Agents. Where the Committee or the Association has delegated some or all of the responsibility for the handling of funds to a management agent, such bonds are required for the management agent's officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Committee or the Association.

(2) Amount of Coverage. The total amount of fidelity bond coverage required shall be based upon the Committee's best business judgment, but shall not be less than the estimated maximum amount of funds, including reserve funds, in the custody of the Committee, the Association, or the management agent, as the case may be, at any given time during the term of each bond. Nevertheless, in no event may the amount of such bonds be less than a sum equal to three (3) months' aggregate assessments on all Lots, plus reserve funds.

(3) Quality of Coverage. The bonds required shall meet the following additional requirements:

a. they shall name the Committee, the Owners Association, and the Property Manager as obligee;

b. if the insurance contract or bond excludes coverage for damages caused by persons serving without compensation, and may use that exclusion as a defense or reason not to pay a claim, the insurance company shall, if possible, be required to waive that exclusion or defense;

c. the premiums on all bonds required herein for the Committee and the Association (except for premiums on fidelity bonds maintained by a management agent for its officers, employees and agents) shall be paid by the Committee or the Association as part of the Common Expenses; and

d. the bonds shall provide that they may not be canceled or substantially modified, including cancellation for nonpayment of premium, without at least ten days' prior written notice to the Committee and the Association, to any Insurance Trustee, and to each servicer of loans on behalf of any Mortgagee, and FNMA.

e) Earthquake Insurance shall not be required unless requested by a least Seventy five percent (75%) of the Members of the Association.

f) Miscellaneous Items. The following provisions shall apply to all insurance coverage:

(1) Quality of Carrier. A "B" or better general policyholder's rating or a "6" or better financial performance index rating in Best's Insurance Reports, an "A" or better general policyholder's rating and a financial size category of "VIII" or better in Best's Insurance Reports -- International Edition, an "A" or better rating in Demotech's Hazard Insurance Financial Stability Ratings, a "BBBq" qualified solvency ratio or a "BBB" or better claims-paying ability rating in Standard and Poor's Insurers Solvency Review, or a "BBB" or better claims-paying ability rating in Standard and Poor's International Confidential Rating Service -- if the carrier is issuing a master policy or an insurance policy for the common elements in the Project.

(2) The Insured. The name of the insured under each policy required to be maintained hereby shall be set forth therein substantially as follows: "COLDWATER CREEK HOMEOWNERS ASSOCIATION for the use and benefit of the individual Owners."

(3) Designated Representative. The Association may designate an authorized representative of the Association, including any Insurance Trustee with whom the Association has entered into an Insurance Trust Agreement, or any successor to such Trustee, for the use and benefit of the individual Owners.

(4) Beneficiary. In any policy covering the entire Project, each Owner and his Mortgagee, if any, shall be beneficiaries of the policy in an amount equal to the Owner's percentage of undivided Ownership interest in the Common Areas and Facilities.

(5) Certificate of Insurance. Evidence of insurance shall be issued to each Owner and Mortgagee upon request.

(6) Mortgage Provisions. Each policy shall contain a standard mortgage clause or its equivalent and shall provide that the policy may not be canceled or substantially modified without at least ten (10) days prior written notice to the Association and to each

Mortgagee.

(7) Other Required Language. Each insurance policy shall contain at least the following additional miscellaneous items:

a. Waiver of Subrogation. A waiver of the right of a subrogation against Owners individually;

b. Individual Neglect. A provision that the insurance is not prejudiced by any act or neglect of any individual Owner; and

(8) Deductible. The deductible on a claim made against the Association's Property Insurance Policy shall be paid for by the Association.

(9) Individual Insurance. Each Owner and resident shall purchase and maintain adequate liability and property insurance on his Lot, Dwelling Unit, personal property and contents; provided, however, no Owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Association, on behalf of all the Owners and their mortgagees, may realize under any insurance policy which the Association may have in force on the Property at any particular time.

(10) Primary Coverage. The insurance coverage of an Owner shall, in the event the Association also has insurance covering the loss, be primary and the insurance of the Association shall be secondary.

(11) Prompt Repair. Each Owner further covenants and agrees that in the event of any partial loss, damage or destruction of his Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction.

(12) Disbursement of Proceeds. Proceeds of insurance policies shall be disbursed to repair promptly and reasonably the damages. Any proceeds remaining thereafter shall be placed in the Capital Improvement Reserve Account and retained by and for the benefit of the Association. This is a covenant for the benefit of the Association and any Mortgagee of a Lot, and may be enforced by them.

(13) Special Endorsements. Each policy shall also contain or provide those endorsements commonly purchased by other Associations in similarly situated first class subdivisions in the county, including but not limited to a guaranteed replacement cost endorsement under which the insurer agrees to replace the insurable property regardless of the cost and; or a Replacement Cost Endorsement under which the insurer agrees to pay up to 100% of the property's insurable replacement cost, but no more, and, if the policy includes a coinsurance clause, an Agreed Amount Endorsement which waives the requirement for coinsurance; an Inflation Guard Endorsement when it can be obtained, a Building Ordinance or Law Endorsement, if the enforcement

of any building, zoning or land-use law will result in loss or damage, increased cost of repairs or reconstruction, or additional demolition and removal costs, and increased costs of reconstruction.

(14) Restrictions on Policies. No insurance policy shall be maintained where:

a. Individual Assessments Prohibited. Under the term of the carrier's charter, By-Laws, or policy, contributions may be required from, or assessments may be made against, an Owner, a borrower, a Mortgagee, the Management Committee, the Association, FNMA, or the designee of FNMA.

b. Payments Contingent. By the terms of the Declaration, By-Laws, or policy, payments are contingent upon action by the carrier's board of directors, policyholder, or member; or

c. Mortgagee Limitation Provisions. The policy includes any limited clauses (other than insurance conditions) which could prevent the party entitled (including, without limitation, the Committee, the Association, an Owner, FNMA, or the borrowers) from collecting insurance proceeds.

(15) Intent. The foregoing provisions shall not be construed to limit the power or authority of the Association, Committee or Owners to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Management Committee or Association may deem appropriate from time to time.

24. Destruction, Condemnation, and Obsolescence. The following provisions shall apply with respect to the destruction, condemnation, or obsolescence of the Project.

a) Definitions. Each of the following terms shall have the meaning indicated:

(1) "Substantial Destruction" shall exist whenever, as a result of any damage or destruction to the Project or any part thereof, the excess of the estimated cost of restoration over the funds available is Twenty five percent (25%) percent or more of the estimated restored value of the Project.

(2) "Partial Destruction" shall mean any other damage or destruction to the Project or any part thereof.

(3) "Substantial Condemnation" shall exist whenever a complete taking of the Project or a taking of part of the Project has occurred under eminent domain or by grant or conveyance in lieu of condemnation, and the excess of the estimated cost of restoration over the funds available is Twenty five (25%) percent or more of the estimated restored value of the Project.

(4) "Partial Condemnation" shall mean any other such taking by eminent domain or grant or conveyance in lieu thereof.

(5) "Substantial Obsolescence" shall exist whenever the Project or any part thereof has reached such a state of obsolescence or disrepair that the excess of the estimated cost of restoration over the funds available is Twenty five percent (25%) percent or more of the estimated restored value of the Project.

(6) "Partial Obsolescence" shall mean any state of obsolescence or disrepair, which does not constitute Substantial Obsolescence.

(7) "Restored Value" shall mean the fair market value of the Project after Restoration as determined by an MAI or other qualified appraisal.

(8) "Estimated Cost of Restoration" shall mean the estimated costs of restoring the Project to its former condition.

(9) "Available Funds" shall mean any proceeds of insurance, condemnation awards, payments in lieu of condemnation, and any uncommitted funds of the Management Committee or Association. Available Funds shall not include that portion of insurance proceeds legally required to be paid to any party other than the Association, including a mortgagee, or that portion of any condemnation award or payment in lieu of condemnation payable to the Owner or Mortgagee for the condemnation or taking of the Lot in which they are interested.

b) Determination by Committee. Upon the occurrence of any damage or destruction to the Project or any part thereof, or upon a complete or partial taking of the Project under eminent domain or by grant or conveyance in lieu thereof, the Committee shall make a determination as to whether the excess of Estimated Costs of Restoration over Available Funds is twenty-five percent (25%) or more of the estimated Restored Value of the Project. In addition, the Committee shall, from time to time, review the condition of the Project to determine whether Substantial Obsolescence exists. In making such determinations the Committee may retain and rely upon one or more qualified appraisers or other professionals.

c) Restoration of the Project. Restoration of the Project shall be undertaken by the Committee promptly without a vote of the Owners in the event of Partial Destruction, Partial Condemnation, or Partial Obsolescence and shall also be undertaken in the event of Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence unless the failure to make Restoration is consented to by Owners collectively holding at least sixty-seven percent of the Project's undivided Ownership interest and is further consented to by Eligible Mortgagees holding Mortgages on Lots which have appurtenant at least fifty-one (51%) percent of the undivided ownership interest in the Common Areas and Facilities which is then subject to Mortgages held by Eligible Mortgagees.

d) Notices of Destruction or Obsolescence. Within thirty (30) days after the Committee has determined that Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence exists, it shall send to each Owner and Eligible Mortgagee a written description of the

destruction, condemnation, or state of obsolescence involved, shall take appropriate steps to ascertain the preferences of the Eligible Mortgagees concerning Restoration, and shall, with or without a meeting of the Owners (but in any event in accordance with the applicable provisions of this Declaration), take appropriate steps to determine the preferences of the Owners regarding Restoration.

e) Excess Insurance. If the insurance proceeds condemnation awards, or payments in lieu of condemnation actually received by the Committee or Association exceed the cost of Restoration when Restoration is undertaken, then the excess funds shall be placed in the Capital Improvement Reserve Account and retained by and for the benefit of the Association. This covenant is also for the benefit of the Association and any Mortgagee, and, therefore, may also be enforced by them. Payment to any Owner whose Lot is the subject of a Mortgage shall be made jointly to such Owner and the interested Mortgagee.

f) Inadequate Insurance. In the event, the cost of Restoration exceeds Available Funds; all of the Lots shall be assessed for the deficiency on the basis of their respective percentages of undivided Ownership interest in the Common Areas.

g) Reallocation in Event of Partial Restoration. In the event that all or any portion of one or more Lots will not be the subject of Restoration (even though the Project will continue as a planned unit development) or is taken in a condemnation proceeding or pursuant to any agreement in lieu thereof, the undivided Ownership interest in the Common Areas and Facilities shall be immediately reallocated to the remaining Lots.

h) Sale of Project. Unless Restoration is accomplished as set forth above, the Project shall be sold in the event of Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence. In the event of such sale, ownership under this Declaration and the Plat Map shall terminate and the proceeds of sale and any Available Funds shall be distributed by the Committee to the Owners in proportion to their respective undivided interests in the Common Areas. Payment to any Owner whose Lot is then the subject of a Mortgage shall be made jointly to such Owner and the interested Mortgagee.

i) Authority of Committee to Represent Owners in Condemnation or to Restore or Sell. The Committee, as attorney-in-fact for each Owner, shall represent all of the Owners and the Association in any condemnation proceeding or in negotiations, settlements, and agreements with the condemning authority for the acquisition of all or any part of the Common Areas and Facilities.

j) Settlement Proceeds. The award in any condemnation proceeding and the proceeds of any settlement related thereto shall be payable to the Association for the use and benefit of the Owners and their mortgagees as their interests may appear.

k) Restoration Power. The Committee, as attorney-in-fact for each Owner, shall have and is hereby granted full power and authority to restore or to sell the Project and each Lot therein whenever Restoration or sale, as the case may be, is undertaken as hereinabove provided.

1) Right of Contract. Such authority shall include the right and power to enter into any contracts, deeds or other instruments which may be necessary or appropriate for Restoration or sale, as the case may be.

25. Consent in Lieu of Vote. In any case in which this Declaration requires the vote of an Owner for authorization or approval of an act or a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such proposed act or transaction from Owners who collectively hold the required percentages, subject to the following conditions:

a) Ninety-Day Limit. All necessary consents must be obtained prior to the expiration of ninety (90) days from the time the first written consent is obtained; and

b) Change In Ownership. Any change in Ownership of a Lot which occurs after consent has been obtained from the Owner having an interest therein shall not be considered or taken into account for any purpose.

26. Mortgagee Protection. The lien or claim against a Lot for unpaid Assessments levied by the Management Committee or by the Association pursuant to this Declaration or the Act shall be subordinate to any Mortgage recorded on or before the date such Assessments become due, subject to the following:

a) Effects of Voluntary and Involuntary Sale. The lien or claim against a Lot for such unpaid Assessments shall not be affected by any sale or transfer of such Lot, except that a sale or transfer pursuant to a foreclosure of the Mortgage affecting such Lot or the exercise of a power of sale available thereunder shall extinguish any debt payable prior to such sale or transfer. Nevertheless, any such unpaid Assessments which are extinguished in accordance with the foreclosure or power of sale shall not relieve the purchaser or transferee of such Lot from liability for, nor such Lot the lien of any Assessments becoming due thereafter.

b) Books and Records Available for Inspection. The Committee or the Association shall make available to the Owners, to Mortgagees, and lenders, and to holders, insurers, or guarantors of any Mortgage current copies of the Declaration, By-Laws, Articles of Incorporation, and administrative rules and regulations concerning the Project, as well as the books, records, and financial statements of the Committee and the Association. The term "Available", as used in the Paragraph, shall mean available for reasonable inspection upon request during normal business hours or under other reasonable circumstances. The Association shall have the right to recover its photocopying and service charges incurred in making the inspection and photocopying available.

c) Right to Financial Statement. The holder, insurer or guarantor of any Mortgage shall be entitled, upon written request, to a financial statement for the immediately preceding fiscal year. Any financial statement requested pursuant hereto shall be furnished to the requesting party within a reasonable time following such request.

d) Management Contracts. Any agreement for professional management of the

Project, and any contract for goods or services, or any lease which is entered into by the Management Committee or the Association shall provide or be deemed to provide hereby that either party may terminate the contract with or without cause upon at least thirty (30) days prior written notice to the other party thereto.

e) Eligible Mortgagee Designation. Upon written request to the Committee or the Association by the holder, insurer, or guarantor of a Mortgage (which request identifies the name and address of such holder, insurer or guarantor and the Lot Number or address of the property encumbered by the Mortgage held or insured by such holder, insurer, or guarantor), such holder insurer, or guarantor shall be deemed thereafter to be an "Eligible Mortgagee" or "Eligible Insurer" or "Eligible Guarantor," as the case may be, shall be included on the appropriate lists maintained by the Association, and shall be entitled to timely written notice of any of the following:

(1) Condemnation Loss or Award. Any condemnation loss or any casualty loss which affects a material portion of the Project or any Lot on which there is a Mortgage held, insured, or guaranteed by such Eligible Insurer or Guarantor.

(2) Delinquency. Any delinquency in the payment of Assessments owed by an Owner of a Lot subject to a Mortgage held, insured or guaranteed by such Eligible Insurer or Guarantor, which delinquency remains uncured for a period of sixty days.

(3) Lapse of Insurance. Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Committee or the Association.

(4) Consent Required. Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees.

f) No Right of First Refusal. The right of an Owner to sell, transfer, or otherwise convey his Lot shall not be subject to any right of first refusal or similar restriction.

27. Amendment. This Declaration may be amended as follows:

a) Consent of the Owners. The affirmative vote of at least Sixty seven percent (67%) of the Owners shall be required and shall be sufficient to amend the Declaration or the Plat Map. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by the Management Committee. In such instrument the Committee shall certify that the vote required by this Section for amendment has occurred, and, if approval of a specified percentage of Eligible Mortgagees is required for such amendment, that such approval has been obtained; and

b) Consent of Eligible Mortgagee. The consent of at least sixty-seven percent (67%) of the Eligible Mortgagees shall be required to any amendment which would terminate the legal status of the Project; and the consent of Eligible Mortgagees holding at least fifty-one percent of the undivided Ownership interest in the Common Areas shall be required to add to or amend any material provision of this Declaration or the Plat Map which establishes, provides for, governs, or regulates

any of the following: (1) voting rights; (2) increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or the priority of assessment liens; (3) reductions in reserves for maintenance, repair, and replacement of the Common elements; (4) insurance or fidelity bonds; (5) limitations and restrictions on the right to use of the Common Areas; (6) responsibility for maintenance and repairs; (7) expansion or contraction of the Project or the addition, annexation or withdrawal of property to or from the Project; (8) the boundaries of any Lot; (9) the percentages of Ownership interest in the Common Areas; (10) convertibility of a Lot into Common Areas or Common Area into a Lot; (11) the imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his Lot; (12) express benefits or rights of Mortgagees, Eligible Mortgagees, or Eligible Insurers or Guarantors; and (13) the requirement that the Project be professionally managed rather than self managed. Any addition or amendment shall not be considered material for purposes of this Paragraph b) if it is for clarification only or to correct a clerical error. Notice of any proposed amendment to any Eligible Mortgagee to whom a written request to approve an addition or amendment to this Declaration or the Plat Map is required shall be mailed postage prepaid to the address for such Mortgagee shown on the list maintained by the Association. Any Eligible Mortgagee who does not deliver to the Committee or the Association a negative response to the notice of the proposed amendment within thirty (30) days from the date of such mailing shall be deemed to have approved the proposal. The foregoing consent requirements shall not be applicable to amendments to this Declaration and the Plat Map or the termination of the legal status of the Project as a planned unit development, if such amendments or such termination are made or accomplished in accordance with the provisions of this Declaration regarding Condemnation or Substantial Obsolescence. Anything to the contrary notwithstanding, if any financing or the guaranty of any financing on a Lot or Dwelling Unit is provided by the Federal Housing Administration of the United States Department of Housing and Urban Development (FHA), the Federal Home Loan Mortgage Corporation or the Mortgage Corporation (FHLMC), Federal National Mortgage Association (FNMA), Government National Mortgage Association (GNMA) or the Veterans Administration (VA), no material amendment, as defined above, to the Declaration, or merger, may become effective, as to said Agencies, without their prior express written consent.

28. Notice and Hearing. In the event a claim is made that a Lot Owner or resident has violated the Project Documents, the Owner or resident shall be entitled to the following:

a) Notice in Writing. Written notice specifying the nature of the violation (and providing any other appropriate information), and stating the time, date and place when the Owner or resident will have an opportunity to be heard by the Management Committee.

b) Hearing. The right to a hearing in front of the Management Committee.

c) Schedule and Manner of Providing Notice. Notice may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after it has been deposited in the United States mail, first class postage prepaid, addressed to the member at the address given by the member to the Management Committee for the purpose of service of notice or to the address of the member's Lot if no other address has been provided. Any address may be changed from time to time by giving written notice to the Management

Committee.

d) Right to Assess Costs and Fines. If the violation, or the failure to correct or remedy a violation, results or may result in the expenditure of funds, the notice shall also state that the Management Committee may vote to assess the adverse party, levy a fine, or impose other sanctions if the Committee finds that a violation has occurred.

e) Final Determination. After the hearing has taken place, the Management Committee shall (1) determine whether a violation has occurred and, if so, may impose a fine or issue sanctions which shall become effective not less than five (5) days after the date of the hearing; or (2) take such other action as may be appropriate. The determination of the Management Committee shall be final. However, nothing herein shall be construed to prevent the Management Committee from making any emergency repairs or taking any other emergency action it deems necessary and subsequently providing Notice and Hearing.

29. Declarant's Sales Program. Notwithstanding anything to the contrary, until the expiration of the Period of Declarant's Control, neither the Owners, the Association nor the Committee shall interfere with the completion of improvements and sale of all remaining Lots, and Declarant shall have the following rights in furtherance of any sales, promotions or other activities designed to accomplish or facilitate the sale of all Lots owned by Declarant:

a) Sales Office and Model Lots. Declarant shall have the right to maintain one (1) or more sales offices and one (1) or more model Lots, homes or Units at any one time. Such office and/or models may be one or more of the Lots owned by it, or one or more of any separate structures or facilities placed on the Property for the purpose of aiding Declarant's sales effort, or any combination of the foregoing;

b) Promotional. Declarant 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.

c) Common Area Use. Declarant shall have the right to use the Common Areas of the Project to facilitate sales.

d) Relocation and Removal. Declarant shall have the right from time to time to locate or relocate any of its sales offices, models, or signs, banners or similar devices. Within a reasonable period of time after the expiration of the Declarant's Period of Control, Declarant 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 Declarant's sales effort.

30. Limitation on Improvements by Association. Until the expiration of the Declarant's Control Period, neither the Association nor the Committee shall, without the written consent of Declarant, make any improvement to or alteration in any of the Common Areas and Facilities created or constructed by Declarant, other than such repairs, replacements, or similar matters as may be

necessary to properly maintain the Common Areas as originally created or constructed by Declarant.

31. Declarant's Rights Assignable. All of the rights of Declarant 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 Declarant 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, protection and controls which are accorded to Declarant (in its capacity as Declarant) herein.

32. Working Capital Fund. A working capital fund shall be established by the Declarant to meet unforeseen expenditures or to purchase any additional equipment or services. The initial working capital fund shall be in an amount equal to two (2) months of estimated common assessments for each Lot. Each Lot's share of the working capital fund shall be collected either at the time the sale of any Unit is closed or when control of the Project is transferred to the Lot Owners, whichever first occurs. Any amounts paid into the working capital fund shall not be considered as advance payments of regular monthly assessments. The working capital fund shall be transferred to the Association for deposit to a segregated fund when control of the Association is transferred to the Lot Owners. The Declarant is prohibited from using the working capital fund to defray any of its expenses, reserve contributions, or construction costs or to make up any budget deficits while it is in control of the Association. When a Lot is sold, however, the Declarant may reimburse itself for monies it has paid the Association for an unsold Lot's share of the working capital fund by using funds collected at closing when the Lot is sold.

33. Transfer of Management. Anything to the contrary notwithstanding, Declarant may at any time relinquish its reserved right to select members of the Committee, and to transfer management of the Project to the Association. If and when Declarant elects to do so, Declarant shall send written notification to each Owner of the effective date of the transfer (the "Transfer or Transition Date") at least Forty five (45) days prior thereto. Thereupon, the Owners shall call a meeting to elect the members of their own Management Committee to take office as of the Transfer Date. Declarant covenants to cooperate with the Owners in effecting an orderly transition of management. Moreover, Declarant shall cause all obligations for Common Area expenses of the Committee incurred prior to the Transfer Date to be paid in full on or before such date.

34. Certain Provisions Applicable to Declarant. Notwithstanding any other provision herein contained, for so long as Declarant continues to own any of the Lots the following provisions shall be deemed to be in full force and effect, none of which shall be construed so as to relieve the Declarant from any obligations of an Owner to pay Assessments or Assessments, except as herein otherwise provided, as to each Lot owned by Declarant in accordance with the Declaration.

a) Declarant specifically disclaims any intent to have made any warranty or representation in connection with the Project or the Declaration except as specifically set forth herein or in any agreement for sale of a Lot, and no person shall rely upon any warranty or representation not so specifically made therein.

b) No amendment may be made to the Declaration without the written consent of Declarant so long as Declarant retains the Ownership of five (5) or more Lots within the Project.

35. 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.

36. Covenants to Run with Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitude's, as the case may be, and shall be binding upon and shall inure to the benefit of Association, all other signatories hereto, all parties who hereafter acquire any interest in a Lot or in the Project, and their respective grantees, transferees, heirs, devisees, personal representative, successors, and assigns. Each Owner or resident 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.

37. Enforcement and Right to Recover Attorney's Fees. The Association, Management Committee, or any Lot Owner may take action, at law or in equity, to enforce the terms, covenants or conditions of the Project Documents. Should the Association, Management Committee or a Lot Owner be required to take action to enforce the Project Documents, or to pursue any remedy provided hereunder or by applicable law, whether such remedy is pursued by filing suit or otherwise, they may recover all Additional Charges, including a reasonable attorney's fee, which may arise or accrue.

38. Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Project designed to make the Project safer than it otherwise might be. However, neither the Association nor the Committee shall in any way be considered insurers or guarantors of security within the Project. Neither the Association nor the Management Committee shall be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. All Owners and residents, their guests and invitees, as applicable, acknowledge that neither the Association nor the Committee represent or warrant that any security measures undertaken will insure their safety. All Owners and residents, their guests and invitees, acknowledge and understand that the Association and Committee are not insurers of their safety and they hereby assume all risks for loss or damage to their person or property and further acknowledge that the Association and Committee have made no representations or warranties, nor have they relied upon any representations or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any security measures undertaken within the Project.

39. Mechanics Liens. Mechanics liens shall be filed in the office of the County Recorder, as follows:

a) Association/Goods or Services. Mechanics liens for labor, materials or supplies purchased by the Association shall be filed against all Lot Owners in the Project and their appurtenant interest in the Common Area, and shall be indexed in the public records under the name of the Association and Community. If the Association has encumbered the Common Areas and thereafter defaults on its obligations, the lienholder must exercise its rights against the Common Areas before it may proceed against any Lot. Any Owner wishing to release that lien as to his Lot may pay the pro rata share of the total amount of the lien and that shall be sufficient to release the lien against his Lot.

b) Lot Owner/Goods or Services. Mechanics liens filed for labor, materials or supplies benefiting a particular Lot shall be filed against that Lot and its appurtenant interest in the Common Area.

c) Constructive Consent. Any person or entity who elects to perform labor or provide materials at this Project agrees to be bound by and subject to the terms of this Section.

40. Architectural Guidelines and Review. The Project is subject to and bound by the following architectural guidelines:

a. Declarant. Each Lot Owner, by accepting a deed or other instrument conveying any interest in any portion of the Property, acknowledges that, as the developer of the Property and as an Owner of portions of the Property as well as other real estate within the vicinity of the Property, Declarant has a substantial interest in ensuring that the improvements within the Property enhance the Declarant's reputation as a community developer and do not impair the Declarant's ability to market, sell, or lease its property. Therefore, each Lot Owner agrees that no activity within the scope of this Section (the "Work") shall be commenced on such Owner's Lot or Dwelling Unit unless and until the Declarant or its designee has given its prior written approval for such Work, which approval may be granted or withheld in the sole discretion of the Declarant or its designee.

In reviewing and acting upon any request for approval, Declarant or its designee shall be acting solely in the interest of the Declarant and shall owe no duty to any other Person. The rights reserved to Declarant under this Section shall continue so long as Declarant owns any portion of the Property or any real property adjacent to the Property, unless earlier terminated in a written instrument executed by Declarant and recorded in the Office of the County Recorder of Weber County, Utah.

The Declarant may, in its sole discretion, designate one or more Persons from time to time to act on its behalf in reviewing applications hereunder.

The Declarant may from time to time, but shall not be obligated to, delegate all or a portion of its reserved rights under this Section to (a) an architectural review committee appointed by the

Management Committee (the "ARC"), or (b) a committee comprised of architects, engineers or other persons who may or may not be Members of the Association. Any such delegation shall be in writing, specifying the scope of responsibilities delegated and shall be subject to (1) the right of Declarant to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and (2) the right of Declarant to veto any decision which Declarant determines, in its sole discretion, to be inappropriate or inadvisable for any reason. So long as the Declarant has any rights under this Section, the jurisdiction of the foregoing entities shall be limited to such matters as are specifically delegated to it by the Declarant.

b. Association. Upon delegation by Declarant or upon expiration or termination of the Declarant's rights under the foregoing Section, the Association, acting through the ARC, shall assume jurisdiction over architectural matters hereunder. The ARC, when appointed shall consist of at least three (3) but not more than seven (7) persons who shall serve and may be removed and replaced at the Management Committee's discretion. The members of the ARC may be the members of the Management Committee but need not be members of the Association or representatives of Members, and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Management Committee.

Unless and until such time as Declarant delegates all or a portion of its reserved rights to the ARC or the Declarant's rights under the foregoing Section terminate, the Association shall have no jurisdiction over architectural matters.

c. Fees. For purposes of this Section, the entity having jurisdiction in a particular case shall be referred to as the "Reviewer." The Reviewer may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. The Declarant and the Association may employ architects, engineers, or other persons as deemed necessary to perform the review. The Management Committee may include the compensation of such persons in the Association's annual operating budget as a common expense.

d. No Waiver of Future Approvals. The approval of the ARC, Management Committee or Declarant of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring their approval or consent, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whatever subsequently or additionally submitted for approval or consent.

e. Variance. The Declarant, Management Committee or ARC may authorize variances from compliance with any of the provisions of the design guidelines when circumstances such as topography, natural obstructions, hardship, aesthetic, or environmental considerations require, but only in accordance with its architectural rules and regulations as they may be adopted from time to time. Such variances may only be granted however when unique circumstances dictate and no variance shall (1) be effective unless in writing, (2) be contrary to the restrictions set forth in the body

of this document, or (3) estop the Management Committee from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit or the terms of financing shall not be considered a hardship warranting a variance.

f. Limitations of Liability. Neither the Declarant, Association, Management Committee nor the ARC, nor any of their agents, employees, representatives or consultants shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of this Declaration, nor for any structural or other defects in any work done according to such plans and specifications. In any event, the Declarant, Association, Management Committee and ARC, their agents, representatives, members, employees and consultants shall be indemnified and held harmless by the Lot Owner, including the cost of defending against any such action, claim or demand.

g. Enforcement. Any construction, alteration, or other work done in violation of this Section shall be deemed to be nonconforming. Upon written request from the Management Committee, ARC or the Declarant, Owners shall, at their own cost and expense, remove such construction, alteration, or other work and shall restore the land to substantially the same condition as existed prior to the construction, alteration, or other work. Should an Owner fail to remove and restore as required hereunder, the Management Committee or its designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as existed prior to the construction, alteration or other work. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the benefited Lot and collected as an Individual Assessment.

Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Section and the design guidelines may be excluded by the Management Committee from the Project, subject to the notice and hearing procedures set forth in the Project Documents. In such event, neither the Declarant, Association, Management Committee nor the ARC shall be held liable to any person for exercising the rights granted by this Section.

In addition to the foregoing, the Management Committee shall have the authority and standing, on behalf of the Association, to pursue all legal and equitable remedies available to enforce the provisions of this Section and the decisions of the ARC.

h. Design Guidelines. The Declarant or the Association shall prepare the initial design guidelines which may contain general provisions applicable to the Project as well as specific provisions which may vary from one area of the Project to another depending upon the intended use, theme, design, and unique characteristics of the area. The design guidelines shall include the following items:

1) Building Guidelines. Setbacks, window treatments, window coverings, masonry finishes, roofing materials, colors, antennas and satellite dish, and garages;

2) Fencing. Permitted types, materials, sizes and locations.

3) Landscaping. Plant materials, gravel, pruning, ornamentation, maintenance, and water conservation.

4) Screening. Garbage and refuse, vehicles, firewood, swimming pools and hot tubs, mechanical equipment and utilities, sports equipment, dog houses and runs.

5) Miscellaneous. Signage, mail boxes, exterior lighting, street lighting, sports equipment such as basketball goals and backboards, hockey and soccer nets, ancillary structures, driveways, retaining walls, and site grading.

41. Second Hand Smoke. Smoking or the use of tobacco products is not prohibited in the Buildings, Units or Common Area and Facilities; provided, however, the Association expressly reserves the right to prohibit smoking or the use of tobacco products in the Common Area and Facilities, although the Unit Owners and residents shall be given at least thirty (30) days prior written notice of any change in policy. In addition:

a) Nuisance Defined. Utah Code Annotated, Section 78-38-1(3) (1997) defines a "nuisance" so as to include tobacco smoke that drifts into any Unit a person rents, leases or owns from another Unit more than once in each of two (2) or more consecutive seven (7) day periods which is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. The Association adopts this definition until such time as it is amended or repealed by the Utah legislature at which time this definition shall be similarly and automatically amended or repealed.

b) Release, Waiver & Indemnity. By accepting a deed or other document of conveyance to a Unit, each Owner hereby expressly waives, releases and forever discharges, and further agrees to indemnify, save and hold the Association, Management Committee and members of the Management Committee harmless against any and all claims, suits, actions, debts, damages, costs, charges and expenses, including court costs and attorney's fees, and against all liability, losses and damages of any nature whatever, arising out of the smoking of tobacco products in, on or about the Project, including but not limited to any claim that the Association or Management Committee abate or attempt to abate any alleged nuisance caused by smoking tobacco products.

c) Reservation of Right of Action. Anything to the contrary notwithstanding, the right of action of a Unit Owner or resident created by Utah Code Annotated, Section 78-38-1 (1997) against another Unit Owner or resident who creates a nuisance by generating tobacco smoke is expressly recognized and reserved, conditioned upon the existence of the statutory remedy or its equivalent, and the Association shall approve any reasonable structural alterations to the Common Areas and Facilities to abate this nuisance provided the alterations (a) do not impair the structural integrity of the buildings or improvements, (b) do not materially alter the nature of the Project, (c) do not damage another Unit, and (d) are paid for by the Unit Owner or resident.

42. Agent for Service of Process. After the expiration of the Period of Declarant's Control, the President of the Association shall be the person to receive service of process in the cases authorized by the Act and the office. The initial Registered Agent shall be Lawrence M. Russell and the initial office of the Registered Agent shall be 398 East Marina Circle, Saratoga Springs, Utah 84043.

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

44. Duration. These restrictive covenants shall run with the land and shall be binding upon the owners thereof, their heirs, successors and assigns, 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.

EXECUTED the ____ day of November, 1999.

DECLARANT:
RUSSELL-PACKARD DEVELOPMENT, INC.
a California Corporation

By: _____
Title: Lawrence M. Russell, President

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

On the ____ day of November, 1999 personally appeared before me Lawrence M. Russell, who by me being duly sworn, did say that he is the President of RUSSELL-PACKARD DEVELOPMENT, INC., a California Corporation, and that the within and foregoing instrument was signed in behalf of said company pursuant to the resolution of its Board of Directors or its Articles of Incorporation, and said Lawrence M. Russell, duly acknowledged to me that said corporation executed the same.

Stacey A Yarrington
NOTARY PUBLIC
Residing At: *Weber County*

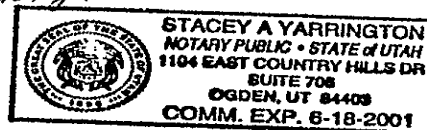


EXHIBIT "A"
LEGAL DESCRIPTION

The Land comprising the Project described in the foregoing Declaration is located in Weber County, Utah and is described more particularly as follows:

Lots 25 through 95, inclusive, ROYLANCE II SUBDIVISION, according to the official plat thereof on file in the Office of the County Recorder of Weber County, Utah.

EXHIBIT "B"

<u>Lot No.</u>	<u>Fractional Interest</u>	<u>Percentage of Ownership Interest</u>
25	1/66	1.52%
26	1/66	1.52%
27	1/66	1.52%
28	1/66	1.52%
29	1/66	1.52%
30	1/66	1.52%
31	1/66	1.52%
32	1/66	1.52%
33	1/66	1.52%
34	1/66	1.52%
35	1/66	1.52%
36	1/66	1.52%
37	1/66	1.52%
38	1/66	1.52%
39	1/66	1.52%
40	1/66	1.52%
41	1/66	1.52%
42	1/66	1.52%
43	1/66	1.52%
44	1/66	1.52%
45	1/66	1.52%
46	1/66	1.52%
47	1/66	1.52%
48	1/66	1.52%
49	1/66	1.52%
50	1/66	1.52%
51	1/66	1.52%
52	1/66	1.52%
53	1/66	1.52%
54	1/66	1.52%
55	1/66	1.52%
56	1/66	1.52%
57	1/66	1.52%
58	1/66	1.52%
59	1/66	1.52%
60	1/66	1.52%
61	1/66	1.52%
62	1/66	1.52%
63	1/66	1.52%
64	1/66	1.52%

<u>Lot No.</u>	<u>Fractional Interest</u>	<u>Percentage of Ownership Interest</u>
65	1/66	1.52%
66	1/66	1.52%
67	1/66	1.52%
68	1/66	1.52%
70	1/66	1.52%
71	1/66	1.52%
72	1/66	1.52%
73	1/66	1.52%
74	1/66	1.52%
75	1/66	1.52%
76	1/66	1.52%
77	1/66	1.52%
78	1/66	1.52%
79	1/66	1.52%
80	1/66	1.52%
81	1/66	1.52%
82	1/66	1.52%
83	1/66	1.52%
84	1/66	1.52%
85	1/66	1.52%
86	1/66	1.52%
87	1/66	1.52%
88	1/66	1.52%
89	1/66	1.52%
90	1/66	1.52%
TOTAL:		100.00%

EXHIBIT "C"
BY-LAWS
OF
COLDWATER CREEK

The following are adopted by the Declarant as the administrative By-Laws of the Association of COLDWATER CREEK

ARTICLE I

PLAN OF LOT OWNERSHIP AND INCORPORATION

1. Submission. These By-Laws are referred to and incorporated by reference in the foregoing Declaration of Covenants, Conditions and Restrictions of COLDWATER CREEK (the "Declaration"), which is located in Weber County, State of Utah. These By-Laws shall govern the administration of COLDWATER CREEK and its Association of Lot Owners.
2. Conflict. In the event of any conflict, incongruity or inconsistency between the provisions of these By Laws and the provisions of the Declaration, the latter shall in all instances govern and control.
3. Office and Registered Agent. The Registered Agent of the Association is Lawrence M. Russell. The initial Registered Office of the Association is 398 East Marina Circle, Saratoga Springs, Utah 84043. However, after transfer of management and control of the Association is made by the Developer to the Association, the Registered Agent of the Association shall be the President of the Association and the Registered Office of the Association shall be the home of the President or such other place as shall be designated by him.
4. By-Laws Applicability. All present and future Owners, residents, tenants, renters, lessees, and their guests, licensees, invitees, servants, agents or employees, and any other person or persons who shall be permitted entrance at COLDWATER CREEK shall be subject to and abide by these By-Laws.

ARTICLE II

ASSOCIATION

1. Composition. The association of lot owners is a mandatory association consisting of all Lot Owners at the Project.
2. Voting. Each Class A Lot shall have one (1) vote and each Class B Lot shall have five (5) votes. Multiple owners must elect a representative to cast their vote. A vote cast, without objection, by an apparent representative of multiple owners

shall be binding upon the parties. Entities may vote by means of their authorized agent.

3. Place of Meeting. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place as may be designated by the Committee from time to time and stated in the notice of meeting.

4. Annual Meeting. Unless otherwise designated by the Committee, the annual meeting of the Association shall be held at 7:00 o'clock p.m. on the second Tuesday of October of each year, or at such other suitable day, date and time as may be designated by the Committee from time to time. When such day is a legal holiday, the meeting shall occur on the first business day thereafter. The place of meeting shall be the principal office of the Association unless otherwise specified in the notice of meeting.

5. Special Meetings. The President shall call a special meeting (a) if he so desires, (b) if a majority of the members of the Management Committee direct him to do so, or (c) upon receipt of a petition signed and presented to the Secretary of the Committee by at least twenty-five percent (25%) of the members of the Association. The notice of any special meeting shall state the date, time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

6. Notice of Meeting. It shall be the duty of the Secretary to hand deliver or mail, by regular U.S. mail postage prepaid, a notice of (a) each annual meeting of the Owners not less than ten (10) and not more than thirty (30) days in advance of such meeting; and (b) each special meeting of the Owners at least three (3) days and not more than twenty (20) days in advance of such meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Owner of record, at the address of his respective Lot or such other address as each Owner may have designated by notice in writing to the Secretary. The mailing of a notice of meeting in the manner provided in this Section shall be considered service of notice.

7. Voting Requirements. An Owner shall be deemed to be in "good standing" and "entitled to vote" at any annual meeting or at any special meeting of the Association if, and only if, he shall be in full compliance with all of the terms, covenants, and conditions of the Project Documents, and shall have fully paid all Assessments and/or Additional Charges due.

8. Proxies. The votes appertaining to any Lot may be cast pursuant to a proxy or proxies duly executed by or on behalf of the Lot Owner, or in cases where the Lot Owner is more than one person, by or on behalf of all such persons. No such proxy shall be revocable except by actual written notice to the person presiding over the meeting, by the Lot Owner or by any of such persons, that it be revoked. Any proxy shall be void if it is not dated, if it purports to be revocable without notice, or if it is not signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of that person. Unless it expressly states otherwise, a proxy shall terminate automatically upon the adjournment of the first meeting held on or after the date of that proxy. Each proxy must be filed with the Secretary of the Committee before the meeting. Only individual Lot Owners or the legal representative of an Organizational Lot Owner may be proxies.

9. Quorum. A majority of the members of the Association shall constitute a quorum for the adoption of decisions. If, however, such quorum shall not be present or represented at any meeting, the Owners entitled to vote thereat, present in person or represented by proxy, shall have power to adjourn the meeting and reschedule for a time no earlier than two (2) days nor more than thirty (30) days after the set time for the original meeting. No notice of such rescheduled meeting shall be required except an announcement thereof at the original meeting. The Owners present at the rescheduled meeting shall constitute a quorum for the adoption of decisions. When a quorum is present at any meeting, the vote of the Lot Owners representing a majority of the members of the Association present at the meeting either in person or by proxy, shall decide any question brought before the meeting; provided, however, if the Declaration requires a fixed percentage of Lot Owners to approve any action, however, that percentage shall be required anything to the contrary notwithstanding.

10. Order of Business. The order of business at all meetings of the Association shall be as follows:

- a) roll call;
- b) proof of notice of meeting;
- c) reading of minutes of preceding meeting;
- d) reports of officers;
- e) report of special committees, if any;
- f) election of inspectors of election, if applicable;
- g) election of Committee Members, if applicable;
- h) unfinished business; and
- i) new business.

11. Conduct of Meeting. The President shall, or in his absence the Vice-President, preside over all meetings of the Association; the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted by the meeting as well as record of all transactions occurring thereat.

ARTICLE III

MANAGEMENT COMMITTEE

1. Powers and Duties. The affairs and business of the Association shall be managed by the Management Committee. The Management Committee shall have all of the powers and duties necessary for the administration of the affairs of the Association in accordance with the provisions of the Declaration, and may do all such acts and things necessary to operate and maintain the Project. The Committee may delegate its authority to a manager or managers. Subject to any limitations or provisions contained in the Declaration, the Committee shall be responsible for at least the following:

- a) Preparation of an annual budget;

- b) Determining the annual assessment of each Owner;
- c) Managing the Association;
- d) Maintaining the Common Areas and Facilities;
- d) Designating, hiring, and dismissing the personnel necessary for the maintenance and operation of the Project;
- e) Collecting the Assessments;
- f) Depositing the collections into a federally insured interest bearing account or accounts;
- f) Adopting and amending rules and regulations;
- g) Enforcing the Project Documents;
- h) Opening of bank accounts on behalf of the Association and designating the signatories required therefor.
- i) Making, or contracting for the making of, repairs, additions, and improvements to, or alterations of, the Property and repairs to, and restoration of, the Property, in accordance with the Declaration and other provisions of these By-Laws, after damage or destruction by fire or other casualty.
- j) Commencing legal action when necessary;
- k) Purchasing and maintaining insurance;
- l) Paying the cost of all services rendered to the Project and not billed directly to Owners of individual Lots.
- m) Keeping books and records of the Association;
- n) Providing common utility services;
- o) Paying any amount necessary to discharge any mechanic's or materialmen's lien or other encumbrance levied against the Common Area or Facilities;
- p) Giving notice of alleged violations of the Project Documents and providing the alleged violator the opportunity to be heard;

- q) Levying fines, sanctions and citations;
- r) Making emergency repairs;
- s) Towing or impounding motor vehicles;
- t) Evicting non-Owner residents in material violation of the Project Documents or who have created and failed to abate a nuisance;
- u) Charging user fees and rents for the Recreational Vehicle parking area;
- v) Assigning parking spaces; and
- w) Doing such other things and acts necessary to accomplish the foregoing.

2. Composition of Management Committee. The Management Committee shall be composed of three (3) members of the Association.

3. Qualification. Only individual Lot Owners or officers or agents of organizational Owners other than individuals shall be eligible for Committee Membership.

4. Election and Term of Office of the Committee. The term of office of membership on the Committee shall be two (2) years and each member shall serve on the Committee until such time as his successor is duly qualified and elected.

5. Initial Organizational Meeting. The first meeting of the members of the Committee shall be immediately following the annual meeting of the Association or at such other time and place designated by the Committee.

6. Regular Meetings. Regular meetings of the Committee shall be held from time to time and at such time and place as shall be determined by a majority of the members of the Committee, but no less often than monthly.

7. Special Meetings. Special meetings of the Committee may be called by the President, Vice-President or a majority of the members on at least forty-eight (48) hours prior notice to each member. Such notice shall be given personally, by regular U. S. mail postage prepaid, or by telephone, and such notice shall state the time, place and purpose of the meeting. Any meeting attended by all members of the Committee shall be valid for any and all purposes.

8. Waiver of Notice. Before or at any meeting of the Committee, any member may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member at any meeting of the Committee shall constitute a waiver of notice. If all the members are present at any meeting of the Committee, no notice shall be required

and any business may be transacted at such meeting.

9. Quorum. At all meetings of the Committee, a majority of the members then in office shall constitute a quorum for the transaction of business, and the acts of the majority of all the Committee members present at a meeting at which a quorum is present shall be deemed to be the acts of the Committee. If, at any meeting of the Committee, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time but for no longer than two (2) days. At any such rescheduled meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

10. Vacancies. Vacancies in the Committee caused by any reason other than removal of a member by a vote of the Association shall be filled by vote of the majority of the remaining members of the Committee at a special meeting of the Committee held for that purpose promptly after the occurrence of any such vacancy, even though the total members remaining may constitute less than a quorum of the committee; and each person so elected shall be a member for the remainder of the term of the member so replaced. A vacancy created by the removal of a member by a vote of the members of the Association at a special meeting called for that purpose shall be filled by the election and vote of the members of the Association at said meeting.

11. Removal of Committee Member. A member may be removed, with or without cause, and his successor elected, at any duly called regular or special meeting of the Association at which a quorum of the Association is present, by an affirmative vote of a majority of the members of the Association. Any member whose removal has been proposed by the Owners shall be given at least thirty days notice of the calling of the meeting and the purpose thereof and an opportunity to be heard at the meeting. Any Committee Member who misses twenty-five percent (25%) or more of the Committee Meetings or who misses three (3) consecutive meetings in any calendar year, shall be automatically removed from the Committee.

12. Removal of Committee Member/Declarant's Rights. Anything to the contrary notwithstanding, the Declarant may only remove Committee members appointed by Declarant and, if removed, the replacement shall also be appointed by the Declarant.

13. Compensation. Committee members shall not be compensated for their services but shall be reimbursed for all expenses reasonably incurred in connection with Committee business and approved by the Committee.

14. Conduct of Meetings. The President shall preside over all meetings of the Committee and the Secretary shall keep a Minute Book of the Committee recording therein all resolutions adopted by the Committee and a record of all transactions and proceedings occurring at such meetings, subject to the following:

a) Open Meetings. A portion of each meeting of the Committee shall be open to all members of the Association, but members other than members of the Committee may not participate in any discussion or deliberation unless expressly so authorized by a majority of a quorum

of the Committee. The Committee shall establish procedures, policies and guidelines for conducting of its meetings, retiring to executive session, and prohibiting photographs and/or any electronic (video or audio) recordation of the meetings, or any part thereof.

b) Executive Session. The Committee may, with approval of a majority of a quorum, adjourn a meeting and reconvene in an Executive Session to discuss and vote upon private, confidential, sensitive or personnel matters, litigation, and orders of business of a similar nature. The nature of any and all business to be considered in an Executive Session shall first be announced in open session.

c) Action Without A Formal Meeting. Any action to be taken at a meeting of the Committee may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all members of the Committee.

15. Report of Committee. The Committee shall present at each annual meeting, and when called for by vote of the Association at any special meeting of the Association, a full and clear statement of the business and condition of the Association.

ARTICLE IV

OFFICERS

1. Designation. The principal officers of the Association shall be a President, a Vice-President, a Secretary and a Treasurer, all of whom shall be elected by the Committee. The Committee may appoint assistant secretaries and such other officers as in its judgment may be necessary. All officers shall also be members of the Committee. Two or more offices may be held by the same person, except that the President shall not hold any other office.

2. Election of Officers. The officers of the Association shall be elected annually by the members of the Management Committee at their first meeting after the annual meeting of the Association. Any vacancy in an office shall be filled by the remaining members of the Management Committee at a regular meeting or special meeting called for such purpose.

3. Removal of Officers. The officers shall hold office until their respective successors are chosen and qualify in their stead. Any officer elected or appointed by the Committee may be removed at any time by the affirmative vote of a majority of the Committee, and his successor may be elected at any regular meeting of the Committee, or at any special meeting of the Committee called for such purposes.

4. President. The President shall be the chief executive officer; he shall preside at meetings of the Association and the Committee and shall be an ex officio member of all committees; he shall have general and active management of the business of the Committee and shall see that all orders and resolutions of the Committee are carried into effect. He shall have all of the general powers and duties, which are usually vested in or incident to the use of president of a stock corporation

organized under the laws of the State of Utah.

5. Vice-President. The Vice-President shall, in the absence or disability of the President, perform the duties and exercise the powers of the President, and shall perform such other duties as the Committee or the President shall prescribe. If neither the President nor the Vice-President is able to act, the Committee shall appoint a member of the Committee to do so on an interim basis.

6. Secretary. The Secretary shall attend all meetings of the Committee and all meetings of the Association and record all votes and the minutes of all proceedings in a book to be kept by him or her for that purpose and shall perform like duties for committees when required. He shall give, or cause to be given, notices for all meetings of the Association and the Committee and shall perform such other duties as may be prescribed by the Committee. The Secretary shall compile and keep current at the principal office of the Association, a complete list of the Owners and their last known post office addresses. This list shall be open to inspection by all Owners and other persons lawfully entitled to inspect the same, at reasonable hours during regular business days. The Secretary shall also keep current and retain custody of the Minute Book of the Association, containing the minutes of all annual and special meetings of the Association and all sessions of the Committee including resolutions.

7. Treasurer. The Treasurer shall have custody of all funds and securities. He shall keep full and accurate records of receipts and disbursements, shall prepare all required financial data, and shall deposit all monies and other valuable effects in such depositories as may be designated by the Committee. He shall disburse funds as ordered by the Committee, taking proper vouchers for such disbursements, and shall render to the President and members, at the regular meetings of the Committee, or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Project.

ARTICLE V

FISCAL YEAR

The fiscal year of the Association shall be the calendar year consisting of the twelve month period commencing on January 1 of each year terminating on December 31 of the same year. The fiscal year herein established shall be subject to change by the Committee should it be deemed advisable or in the best interests of the Association.

ARTICLE VI

AMENDMENT TO BY-LAWS

1. Amendments. These By-Laws may be modified or amended either (i) by the affirmative vote of a majority of the members of the Association or (ii) pursuant to a written instrument of consent duly executed by a majority of the members of the Association provided all of the written consents are obtained within a ninety day period.

2. Recording. An amendment to these By-Laws shall become effective immediately upon recordation in the Office of the County Recorder of Weber County, State of Utah.

ARTICLE VII

NOTICE

1. Manner of Notice. All notices, demands, bills, statements, or other communications provided for or required under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or sent by regular U.S. Mail postage pre-paid, a) if to an Owner, at the address of his Lot and at such other address as the Owner may have designated by notice in writing to the Secretary; or b) if to the Committee or the Manager, at the principal office of the Manager or at such other address as shall be designated by notice in writing to the Owners pursuant to this Section.

2. Waiver of Notice. Whenever any notice is required to be given under the provisions of the statutes, the Declaration, or of these By-Laws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether signed before or after the time stated therein, shall be deemed equivalent thereto, unless such waiver is ineffective under the provisions of the Declaration.

ARTICLE VIII

COMPLIANCE, CONFLICT, AND MISCELLANEOUS PROVISIONS

1. Compliance. These By-Laws are set forth in compliance with the requirements of the Declaration.

2. Conflict. These By-Laws are subordinate and subject to all provisions of the Declaration. All of the terms hereof, except where clearly repugnant to the context, shall have the same meaning as they are defined to have in the Declaration.

3. Severability. If any provisions of these By-Laws or any section, sentence, clause, phrase, or work, or the application thereof in any circumstance is held invalid, the validity of the remainder of these By-Laws shall not be affected thereby and to this end, the provisions hereof are declared to be severable.

4. Waiver. No restriction, condition, obligation, or provision of these By-Laws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

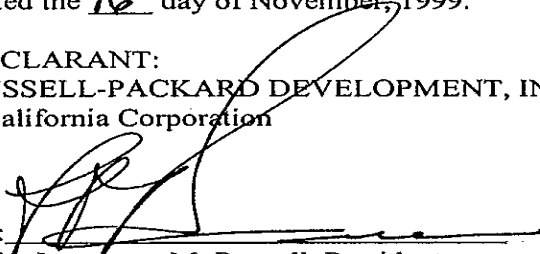
5. Captions. The captions contained in these By-Laws are for convenience only and are not part of these By-Laws and are not intended in any way to limit or enlarge the terms and provisions of these By-Laws.

6. Construction. Whenever in these By-Laws the context so requires, the singular number shall refer to the plural and the converse; the use of any gender shall be deemed to include both masculine and feminine, and the term "shall" is mandatory and "may" permissive.

7. Effective. These By-Laws shall be effective upon recording in the Office of the County Recorder of Weber County.

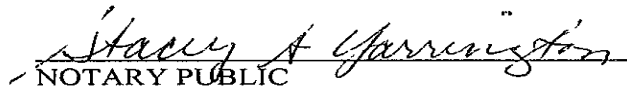
Dated the 16 day of November, 1999.

DECLARANT:
RUSSELL-PACKARD DEVELOPMENT, INC.
a California Corporation

By: 
Title: Lawrence M. Russell, President

STATE OF UTAH)
)ss.
COUNTY OF UTAH)

On the 16th day of November, 1999 personally appeared before me Lawrence M. Russell, who by me being duly sworn, did say that he is the President of RUSSELL-PACKARD DEVELOPMENT, INC., a California corporation, and that the within and foregoing instrument was signed in behalf of said company pursuant to the resolution of its Board of Directors or its Articles of Incorporation, and said Lawrence M. Russell, duly acknowledged to me that said corporation executed the same.


NOTARY PUBLIC
Residing At:

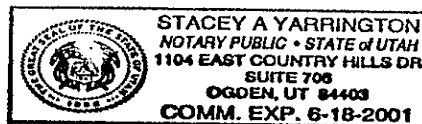


EXHIBIT "D"
LEGAL DESCRIPTION OF COMMON AREA

The LAND referred to in the foregoing document as Common Area is located in Weber County, Utah and is described more particularly as follows:

A PART OF THE NORTH HALF OF SECTION 5, TOWNSHIP 6 NORTH, RANGE 1 WEST AND A PART OF THE SOUTH HALF OF SECTION 32, TOWNSHIP 7 NORTH, RANGE 1 WEST OF THE SALT LAKE BASE AND MERIDIAN.

BEGINNING AT A POINT LOCATED NORTH 89°47'35" EAST 1112.28 FEET ALONG THE NORTH LINE OF SAID SECTION 5 FROM THE NORTHWEST CORNER OF SAID SECTION 5, SAID POINT BEING LOCATED NORTH 00°50'15" EAST 1098.73 FEET AND SOUTH 89°47'40" WEST 3569.99 FEET FROM THE NORTH OGDEN CITY MONUMENT AT THE CENTERLINE INTERSECTION OF WASHINGTON BOULEVARD AND 1700 NORTH STREET; RUNNING THENCE NORTH 89°47'35" EAST 496.64 FEET ALONG SAID NORTH LINE; THENCE NORTH 64°30'00" EAST 290.40 FEET; THENCE NORTH 82°30'00" EAST 722.52 FEET TO THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 32; THENCE SOUTH 00°00'56" WEST 149.81 FEET ALONG SAID WEST LINE; THENCE NORTH 71°19'55" EAST 564.37 FEET TO THE NORTHWEST CORNER OF ROYLANCE FARMS P.R.U.D. PHASE 1; THENCE ALONG THE WESTERLY LINE OF SAID SUBDIVISION THE FOLLOWING TWO COURSES; (1) SOUTH 19°45'21" EAST 43.08 FEET; (2) SOUTH 52°35'00" EAST 223.50 FEET; THENCE SOUTH 73°53'46" WEST 266.93 FEET; THENCE SOUTH 55°34'44" WEST 197.76 FEET; THENCE SOUTH 08°32'39" WEST 118.31 FEET; THENCE SOUTH 85°18'00" WEST 726.41 FEET; THENCE SOUTH 89°48'30" WEST 1046.32 FEET; THENCE NORTH 01°06'00" EAST 290.30 FEET TO THE POINT OF BEGINNING. CONTAINING 17.130 ACRES AND 66 LOTS.

11-015-0009 -
17-068-0021 -
17-068-0090 -

LESS AND EXCEPTING RESIDENTIAL LOTS 25 THROUGH 90, INCLUSIVE, OF COLDWATER CREEK, A UTAH PLANNED UNIT DEVELOPMENT, INCLUSIVE, AND THOSE COMMON AREAS AND FACILITIES, IF ANY, DESCRIBED IN THE MASTER DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR THE COLDWATER CREEK, RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF WEBER COUNTY, UTAH ON THE ___ DAY OF _____, 1999 AS ENTRY NO. _____ IN BOOK _____ AT PAGE _____ OF THE OFFICIAL RECORDS.