

**RETURNED**

06-227-0644 NOV 18 2003

**ASSUMPTION OF RISK, COVENANT AND WAIVER AGREEMENT**

**KNOW ALL MEN BY THESE PRESENTS:**

E 1933399 B 3419 P 1194  
RICHARD T. MAUGHAN, DAVIS CNTY RECORDER  
2003 NOV 18 3:06 PM FEE 14.00 DEP MT  
REC'D FOR WOODS CROSS CITY

**RECITALS:**

A. The undersigned (hereinafter Owner) desires to build a home in Woods Cross City, Utah (hereinafter City ), on property (hereinafter Property) and legally described as follows:

**All of lot 644 field Crest Subdivision, Woods Cross City, Davis County, Utah.**

*Phase 6*

B. Owner has or will apply to the City for issuance of a building permit to construct a home which may include a full or partial basement.

C. Owner has been informed by the City that the Property is located within an area that may contain high ground water, and that construction of basements may not be advisable unless an adequate subsurface drain system is installed or an opinion is obtained from a qualified geotechnical engineer addressing ground water problems that will be encountered in constructing basements and specifying how to adequately remedy the same.

D. It is understood by the Owner that a subsurface drain has not been installed to service the Property.

**NOW, THEREFORE**, in consideration of the issuance of a building permit for the Property, as well as other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner hereby agrees as follows:

1. Owner hereby agrees that, prior to constructing a full or partial basement on the Property, the Owner shall obtain a written report from a qualified geotechnical engineer stating that a basement can be built upon the Property for which the report is given free from adverse consequences from ground water and that a full or partial basement is suitable on such Property. Owner upon obtaining such a report shall thereafter be deemed to have assumed all risk of constructing a basement on the Property and shall be considered as having taken into account the fact that damages and consequences may occur from ground water and shall be deemed to be fully advised of the potential risks of electing to construct a basement on the Property.

2. Owner, on behalf of itself, its agents, heirs, successors and assigns, hereby expressly waives any and all claims, causes of action, suits at law or in equity, demands or damages of whatsoever kind or nature which Owner or its agents, heirs, successors and assigns, may have or claim against the City or its officers, employees and representatives based upon or arising out of the City's granting of a building permit.

3. Owner acknowledges that no representation of fact or opinion has been made by the City or anyone on its behalf to induce this assumption of risk and waiver with respect to the extent, nature or likelihood of damages or injuries that may be sustained by the Owner occupying the Property or constructing improvements thereon.

4. Owner hereby agrees to fully comply with the requirements of all applicable ordinances of the City with regard to construction of any structures and improvements located on the Property.

5. Owner intends to and hereby does create by this document a covenant which shall run with the land, being the Property described herein, which shall be binding upon all future owners of any portion thereof. To this end, Owner hereby agrees that this document may be recorded in the office of the Davis County Recorder, State of Utah.

IN WITNESS WHEREOF, the Developer has executed this instrument as of the 25 day of SEPT., 2003.

OWNER

Dakota Homes

By: Travis Ziegler  
Its: Supervisor

ACCEPTED this 25<sup>th</sup> day of September, 2003.

WOODS CROSS CITY

By: [Signature]  
Gary Urick, City Manager



OWNER ACKNOWLEDGMENT

STATE OF UTAH )  
 )  
:SS.  
COUNTY OF DAVIS )

On the 25<sup>TH</sup> day of SEPT, 2003, personally appeared before me TRAVIS ZINGLEMAN who being duly sworn, did say that (s)he is the signer of the foregoing instrument, who duly acknowledged to me that (s)he executed the same.

Janet M Beecher  
\_\_\_\_\_  
Notary Public  
Residing at:

My Commission Expires:

5-22-2005

WOODS CROSS, UTAH

