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Recorded at the request of:  
*Terraventure Development, Ltd.*  
475 N. Third West Suite 204  
Kaysville, Utah 84037

RETURNED

DEC 03 2003

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RICHARD T. MAUGHAN, DAVIS CNTY RECORDER  
2003 DEC 3 8:37 AM FEE 34.00 DEP LHL  
REC'D FOR TERRAVENTURE DEVELOPMENT

DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS

Sunset Pointe Ph-1  
08-320-0002  
draw 0013

Sunset Pointe Subdivision  
Phase 1

Kaysville, Utah

THIS DECLARATION, is made on the date set forth by *TERRAVENTURE DEVELOPMENT*, a Limited Partnership hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property situated in the City of Kaysville, County of Davis, State of Utah, which is more particularly described as: Lots 2-13 of Sunset Pointe Subdivision, Phase 1, according to the official plat thereof recorded as Entry Number 1937298, in Book 3428, and Page 188, in the Office of the Davis County Recorder on 12-3, 2003.

WHEREAS, it is the desire and intention of the Declarant to sell the Lots described above and to impose on them mutual beneficial restrictions under a general plan of improvement for the benefit of all the Lots in the subdivision and the future owners of those lots;

NOW, THEREFORE, the Declarant hereby declares that all of the Lots described above are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied, and improved subject to the following covenants and conditions, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of the lots described above and are established and agreed upon for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Lots. All of the covenants and conditions shall run with the land and shall be binding on all parties having or acquiring any right, title, or interest in the above described Lots or any part hereof.

1. LAND USE AND BUILDING TYPE:

No Lot shall be used except solely for residential purposes. No building shall be erected, altered, placed, or permitted to remain on any lot other than one detached single-family dwelling not to exceed two stories in height and a private garage for not less than two cars. The Architectural Control Committee (defined hereafter) may permit one or more

of the lots to be used for a swimming pool and/or other recreational facilities for the benefit of the owners of some or all of the other Lots described above.

## 2. ARCHITECTURAL CONTROL

- A. No building shall be erected, placed, or altered on any Lot until the construction plans and specifications and a plan showing the location of the structure on the lot and the surface drainage for the lot has been approved in writing by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing residences and as to location with respect to topography and finished grade elevations.
- B. Fences should be kept to a minimum to encourage the use of natural habitat and aesthetics. Any fence constructed on any lot shall be as approved by the Architectural Control Committee and in conformity with the following guidelines.
  - 1. Materials. Fences or walls shall be of wood, brick, wrought iron, vinyl, or stone. No fence or walls of chain link, wire mesh, slump block painted or unpainted concrete block shall be allowed.
  - 2. Height. Fences, walls, or hedges shall not exceed six (6) feet.
  - 3. Dimensions. No hedge fence, or wall more than three feet high shall be erected, placed, altered, or permitted to remain on any Lot closer to the front street than the front of the residential structure on said Lot, or, where said hedge, fence or wall is located along the boundary line between two adjoining lots, it shall not be closer to the street than the front of whichever residential structure on the two adjoining lots is nearest to the street.
- C. No lot shall be used for other than home office or private residence purposes only, except as noted above and no structure of any kind shall be moved from another site onto a lot. All residences shall be completely constructed within one year of date construction commences on said residence unless specifically approved in writing by the Architectural Control Committee.
- D. The main floor exterior wall surface of a dwelling shall consist of brick, rock, stucco, or a combination. All construction shall be of new materials, unless otherwise specifically approved in writing by the Architectural Control Committee. Aluminum trim may be used on soffits not to exceed five percent (5%) of surface. All soffits shall be a minimum of six inches (6").
- E. All roofs in the subdivision shall be of Architectural Grade Asphalt or better. All roofs shall have a pitch of 6-12 or greater (rise over run shall be 6-12 or greater). All roof vent cap louvers, plumbing stacks, chimney flashing, down spouts, etc. are to be painted to match the color of the roof or the trim.

3. DWELLING QUALITY AND SIZE:

The ground square footage area of the main structure exclusive of garage and any open porches shall not be less than 1700 square feet for a one story dwelling. In a split level dwelling the combined area of the upper two levels exclusive of garage and any porches shall total not less than 1700 square feet. In a two story home which has two stories above the curb level, the combined area of the ground story level and the story above the ground story level, exclusive of garage and any open porches shall total not less than 2200 square feet. In a split entry dwelling the combined area of the above ground level and the below ground level shall be not less than 2700 square feet with the above ground level being not less than 1700 square feet exclusive of garage and any open porches. For the purposes of these covenants, the basement area shall in no event be considered a story. It is the purpose of this covenant to assure that all dwellings shall be of a quality of workmanship and materials substantially the same as or better than that which can be produced at the date that these covenants are recorded.

4. EXPOSED CONCRETE:

Any exposed concrete which, in the discretion of the Architectural Control Committee, does not harmonize with the existing surroundings and structures shall be stepped down or shall be covered with approved veneers or hidden from view with appropriate landscaping of the Owner's choice with Committee consent.

5. SET BACK LINES:

All side yards and setback lines shall be in accordance with Kaysville City ordinances.

6. DRAINAGE:

No Lots shall be graded and no structure or other obstacle shall be erected, placed, or permitted to remain thereon in such a way as to interfere with the established drainage over a lot. Adequate provisions shall be made for proper drainage. Any fence or wall erected along the side or rear property line of any Lot shall contain "weep holes" or be otherwise constructed so as not to prevent the flow of surface water from adjoining land where such flow is in accord with the established drainage. The slope control area of each lot and all improvements in them shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

7. NUISANCES:

A. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No clothes drying or storage of any articles which are unsightly in the opinion of the Architectural Control Committee will be permitted on a Lot, unless in enclosed areas designed for such purpose. No automobiles, trailers, boats, commercial, or other such vehicles are to be stored overnight on streets, front, rear, or side Lots (except for temporary convenience). Such trailers, boats or vehicles may be parked in such areas only if they are in running condition, properly licensed and are being regularly used on a frequent basis. No owner, or any other individual shall be

permitted to repair or otherwise work on such boat, trailers or vehicles except in enclosed garages.

- B. Each Owner shall maintain his lot in an attractive and safe manner so as not to detract from the Sunset Pointe Subdivision Phase I as a whole. All owners possessing undeveloped or unoccupied Lots shall be responsible for keeping such Lots clean in appearance and free from all refuse and potential fire hazards.

8. MAIL BOXES:

Mail boxes are to be of the uniform standardized design selected by the Architectural Control Committee.

9. TEMPORARY STRUCTURES:

No structure shall be constructed without the prior written consent of the Architectural Control Committee.

10. ANIMALS:

No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats, or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose and do not become an annoyance or nuisance to the neighborhood.

11. GARBAGE AND REFUSE CONTROL:

No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. No Owner shall be permitted to maintain an incinerator.

12. OIL AND MINING OPERATIONS:

No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted by and Lot owner upon or in any Lot.

13. OFF-SITE IMPROVEMENTS:

A. Before taking title or possession of any Lot from the Developer, the Purchaser shall inspect the completed off-site improvements. Except for deficiencies or defects specified by the Purchaser to the Developer before ownership is taken, purchaser hereby releases the developer from further obligations or responsibility as to the installation of the off-site improvements.

B. If the off-site improvements are not complete at the time ownership is taken, the Developer will upon completion of the uncompleted off-site improvements give written notice of completion to Purchaser and, unless Purchaser notifies the Developer of any deficiencies within seven (7) days after the date of receipt of the notice of completion the off-site improvements shall be deemed acceptable to the Purchaser and the Developer will be released from any further obligations or

responsibilities as to the installation of the previously incomplete off-site improvements.

C. **CONDITION OF ACCEPTANCE:** Upon transfer of title from Developer to Purchaser, Purchaser shall assume full responsibility for accepting property "AS IS" and to make proper inspection to the following prior to closing:

- |                    |                          |
|--------------------|--------------------------|
| 1. Sewer           | 7. Land Drains           |
| 2. Water           | 8. Curb & Gutter         |
| 3. Secondary Water | 9. Sidewalks             |
| 4. Gas             | 10. Grading              |
| 5. Electric        | 11. Others as applicable |
| 6. Phone           |                          |

**14. LANDSCAPING:**

Simultaneously with the construction of a dwelling upon a Lot as provided herein and not later than one year subsequent to occupancy, the owner shall landscape all front and side yards in a manner acceptable to the Architectural Control Committee. Trees of the same type shall be planted upon parking strips of the same street in order to give an appearance of uniformity. The Architectural Control Committee shall have authority to specify and limit the type and placement of trees and other foliage to preclude and minimize the creation of obstructions to drainage systems. All trees, lawns, shrubs or other plantings shall be properly nurtured and maintained or replaced at the Owner's expense upon request of the Architectural Control Committee.

**15. REPAIR OF BUILDINGS AND IMPROVEMENTS:**

No building or improvements upon any lot shall be permitted to fall into disrepair, and each such improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the Owner thereof.

**16. ROOFTOP ANTENNAS:**

No television, ham radio, citizens band, or radio antenna or satellite dish exceeding 36" or other similar electronic receiving or sending device shall be permitted to view from the street or any other Lot. Such antennas, if used, must be of the type that are installed within the natural building structure.

**17. SOLAR:**

All solar designs shall receive approval from Architectural Control Committee.

**18. ARCHITECTURAL CONTROL COMMITTEE:**

A. The Architectural Control Committee shall consist of three members. Any communication to the committee shall be addressed to

ARCHITECTURAL CONTROL COMMITTEE  
Sunset Pointe Subdivision Phase 1  
475 North Third West Suite 204  
Kaysville, Utah 84037

unless the address is changed by written notice to the Lot owners from the Architectural Control Committee. Upon failure of the developer to fill any vacancies in the Committee, the remaining members of the Committee may do so by a majority vote of their number. The Developer may, at its sole discretion, remove members from the committee and fill vacancies. Said rights of appointment and removal shall, however, be subject to the right of the then recorded owners of a majority of the Lots, through a duly recorded written instrument to change any membership of the committee or to withdraw from the committee or restore to it its power and duties, except that the committee shall always have one member selected by the Developer if the Developer so desires. A majority of the committee may designate a representative to act for it. Neither the members of the committee nor its designated representatives shall be entitled to any compensation for the services performed under this declaration.

- B. As the date of this Declaration, the Architectural Control Committee shall be composed of:

David E. Adams	545 South Main Street,	Layton, Utah
David E. Adams II	1157 East Fairway View Drive,	Fruit Heights, Utah
J. Stuart Adams	3271 East 1875 North,	Layton, Utah

- C. At the point that 90% or more of the lots in Sunset Pointe Subdivision (Phase 1) are sold, the Architectural Control Committee will then be controlled by the property owners who shall vote for three (3) of them to serve on the Committee. They shall adopt Bylaws and regulations concerning voting, elect a chairman and any other matters needed to operate and fulfill the purposes and responsibilities of the Architectural Control Committee.

#### 19. TERM OF RESTRICTIONS:

These restrictions are to run with the land permanently except that they may be changed, cancelled or added to in whole or in part by a duly recorded instrument signed by the owners of record of a majority of the Lots.

#### 20. SECONDARY WATER:

At the time of Recording this document, Secondary water is provided by the Developer and through Farmington Area Pressurized Irrigation District (FAPID). The Property Owner is required to make a connection to the Secondary Water System according to Kaysville City Ordinance and pay all connection, annual, or usage fees.

#### 21. COPY OF DECLARATION:

Upon The sale of any Lot or any interest therein, the Owner shall provide to the purchaser of the Lot a copy of this Declaration.

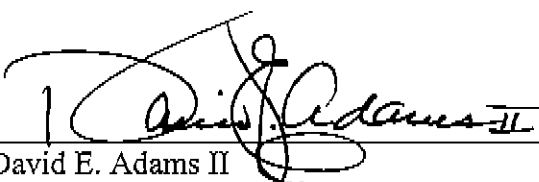
#### 22. SEVERABILITY:

Invalidation of any one of these covenants by judgement or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

This Declaration is made the 26<sup>th</sup> day of November, 2003.

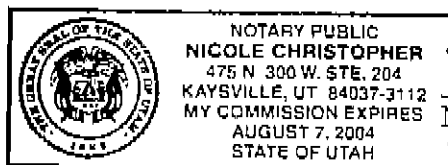
DECLARANT:


*Terraventure Development, Ltd.*, a Limited Partnership

By   
David E. Adams II

STATE OF UTAH     )  
                              :   SS  
COUNTY OF DAVIS    )

On this 26<sup>th</sup> day of November 2003, personally appeared before me David E. Adams II, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.



  
Notary Public

Notary Stamp