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Salt Lake City, UT 84111-1549

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RICHARD T. MAUGHAN
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ARM LLC

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**SECOND AMENDMENT
TO
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
THE VILLAGE AT OLD FARM**

This Second Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for The Village at Old Farm ("**Amendment**") is entered into effective December 14, 2009, by **Gardner BTS Old Farm, LLC**, a Utah limited liability company ("**Declarant**").

BACKGROUND

A. Declarant is the Declarant under the Declaration of Covenants, Conditions, Restrictions and Easements for The Village at Old Farm, recorded December 31, 2007, as Entry No. 2331135 in Book 4439 at Pages 554-604 in the official records of Davis County, Utah (as amended by the First Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for The Village at Old Farm, recorded December 9, 2009, as Entry No. 2498593 in Book 4917 at Pages 1140-1149 in the official records of Davis County, Utah, the "**Declaration**"). Any capitalized term used but not defined in this Amendment will have the meaning attributed to it in the Declaration.

B. The Declaration encumbers certain real property referred to in the Declaration as the Premises, located in Davis County, Utah, and legally described on Exhibit A to this Amendment.

C. Under Section 12.2 of the Declaration, the Declaration may be amended by an instrument executed by Owners representing at least 75% of the Units. Declarant currently is the Owner of at least 75% of the Units.

D. Declarant desires to amend the Declaration as set forth below.

In light of the foregoing, Declarant hereby declares as follows:

AMENDMENT

1. **Amendment to Section 8.02.** Section 8.02 is amended and restated in its entirety as follows:

NON PAYMENT OF CHARGES: Any Charge that is not paid to the Community Association when due shall be deemed delinquent. Any Charge which is delinquent for ten (10) days or more shall bear interest at a rate established by the Community Association Board from time to time (but not to exceed 18% per annum) from the due date to the date when paid, and the Community Association may assess a late fee in the amount of \$25.00. The Community Association may also (i) bring an action against the Owner personally obligated to pay the Charge to recover the Charge (together with interest, costs and reasonable attorney's fees for any such action, which shall be added to the amount of the Charge and included in any judgment rendered in such action), and (ii) enforce and foreclose any lien which it has or which may exist for its benefit. No Owner may waive or otherwise escape personal liability for the Charges hereunder by nonuse of the Common Area, or the Limited Common Areas associated with his or her Unit or by abandonment or transfer of his or her Unit.

2. **Maintenance.** The Declaration is amended to implement the following maintenance obligations. To the extent there is a conflict between the provisions of Section 4 of this Amendment and any provision of the Declaration, the provisions of this Section 4 will prevail.

(a) The Community Association will perform the maintenance and snow removal of the Limited Common Areas appurtenant to the Attached Dwelling Units (Units 335 through 364), and the cost and expense of such maintenance will be assessed against the Attached Dwelling Units in equal (1/30) shares as a Limited Common Area Assessment.

(b) The Municipality will be responsible for maintenance and snow removal on all public streets within the Premises.

(c) The Community Association will be responsible for maintenance and snow removal for the sidewalk running along the north side of Old Shepard Rd and around Hollyhock Circle (i.e., the sidewalk beginning in front of Unit 335 and ending in front of the Unit 362-364 Building). The cost and expense of such maintenance and snow removal will be assessed against the Attached Dwelling Units in equal (1/30) shares as a Limited Common Area Assessment.

(d) Each Detached Dwelling Unit Owner will be responsible for maintenance and snow removal on the sidewalks adjacent to its Unit (including sidewalks located within the Limited Common Areas appurtenant to such Unit and sidewalks that are part of the Common Areas).

(e) The Community Association will be responsible for maintenance and snow removal on the shared driveways located within the Limited Common Areas appurtenant to the Attached Dwelling Units. The cost and expense of such maintenance and snow removal will be assessed against the Attached Dwelling Units in equal (1/30) shares as a Limited Common Area Assessment.

(f) Each Detached Dwelling Unit Owner will be responsible for maintenance and snow removal on the Limited Common Areas (including the driveway) appurtenant to its Unit.

(g) Each Owner will be responsible for the maintenance of its Dwelling Unit, including, without limitation, windows, frames, doors and door jambs.

3. **Landscaping.** [to be included once we have clarified the unit/lot boundary issue]

4. **Definition of Limited Common Area.** Section 1.20 is amended and restated in its entirety as follows:

LIMITED COMMON AREA: Portions of the Common Area that are designated for the exclusive and nonexclusive use of the Owners of one or more Units, shall be known collectively as the "Limited Common Area" as designated herein, on the Plat, or in a supplement or amendment hereto, as provided in Article Nine.

5. **Definition of Limited Common Area Expenses.** Section 1.22 is amended and restated in its entirety as follows:

LIMITED COMMON AREA EXPENSES: Expenses of maintenance, repair, and replacement; the cost of insurance, real estate taxes and other assessments, if any; the cost of water, waste removal, electricity, telephone and other necessary utility expenses; the cost of snow removal and driveway maintenance; and the cost of and the expenses incurred for the maintenance, repair and replacement of personal property used by the Community Association but only in connection with the operation of the Limited Common Areas. The term Limited Common Area Expense further includes any expenses incurred by the Community Association which, pursuant to generally accepted accounting principles, can reasonably be allocated to the Limited Common Areas. Limited Common Area Expenses shall not be deemed to be, and shall not be deemed to include, Community Expenses. In the event that certain expenses are incurred by the Community Association in connection with the operation of a particular Limited Common Area and another Limited Common Area and/or the Common Area, the allocation of expenses between the various Limited Common Area Expenses and the Community Expenses shall be made by the Community Association Board based on generally accepted accounting principles, and any allocation so made shall be final and binding.

6. **Limited Common Planter Areas.** All references to Limited Common Planter Areas and all provisions in the Declaration relating to Limited Common Planter Areas are hereby deleted.

7. **Miscellaneous.** Except as modified by this Amendment, the Declaration will remain in full force and effect. If there is any conflict between a provision of this Amendment and a provision of the Declaration, the provision of this Amendment will control. The invalidity or unenforceability of any portion of this Amendment will not affect the validity or enforceability of the remainder.

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Declarant has executed this Amendment to be effective as of the date first set forth above.

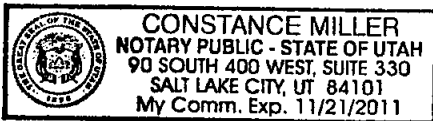
Gardner BTS Old Farm, LLC
a Utah limited liability company

By: *R.C. Gardner*

Name: *Ruben C. Gardner*
Title: Manager

State of Utah)
) ss.
County of Salt Lake)

The foregoing instrument was acknowledged before me on December 4th, 2009, by *Ruben C. Gardner*, a manager of Gardner BTS Old Farm, LLC.



Constance Miller
Notary Public

BOUNDARY DESCRIPTION

Beginning at a point on the easterly right of way line of State Road No. 89, said point being North 0°06'34" West 1392.50 feet along the section line and East 437.58 feet from the Southwest Corner of Section 12, Township 3 North, Range 1 West, Salt Lake Base and Meridian, and running; Thence North 74°18'22" East 163.33 feet; Thence northeasterly 246.13 feet along the arc of a 375.00 foot radius curve to the left, (center bears North 15°41'38" West and long chord bears North 55°30'12" East 241.73 feet, with a central angle of 37°36'20"); Thence North 36°42'02" East 82.85 feet; Thence northeasterly 176.28 feet along the arc of a 200.00 foot radius curve to the left, (center bears North 53°17'58" West and long chord bears North 11°27'00" East 170.63 feet, with a central angle of 50°30'04"); Thence northeasterly 188.37 feet along the arc of a 180.00 foot radius curve to the right, (center bears North 76°11'58" East and long chord bears North 16°10'44" East 179.89 feet, with a central angle of 59°57'33"); Thence North 46°09'31" East 123.83 feet to the west line of State Road No. 106, (Main Street); Thence South 39°09'51" East 187.84 feet along the west line of State Road No. 106, (Main Street); Thence South 63°08'56" West 1.23 feet along the west line of State Road No. 106, (Main Street); Thence South 38°57'59" East 95.81 feet along the west line of State Road No. 106, (Main Street); Thence North 51°02'01" East 1.48 feet along the west line of State Road No. 106, (Main Street); Thence South 39°09'51" East 552.73 feet along the west line of State Road No. 106, (Main Street); Thence northwesterly 40.04 feet along the arc of a 26.50 foot radius curve to the left, (center bears South 50°50'09" West and long chord bears North 82°26'45" West 36.34 feet, with a central angle of 86°33'49"); Thence southwesterly 33.70 feet along the arc of a 180.00 foot radius curve to the right, (center bears North 35°43'40" West and long chord bears South 59°38'10" West 33.65 feet, with a central angle of 10°43'40"); Thence South 85°00'00" West 62.51 feet; Thence southwesterly 23.48 feet along the arc of a 15.00 foot radius curve to the left, (center bears South 25°00'00" East and long chord bears South 20°09'07" West 21.16 feet, with a central angle of 89°41'47"); Thence Southeasterly 52.51 feet along the arc of a 174.00 foot radius curve to the right, (center bears South 65°18'13" West and long chord bears South 16°03'06" East 52.31 feet, with a central angle of 17°17'22"); Thence South 7°24'25" East 6.26 feet; Thence southeasterly 24.89 feet along the arc of a 30.00 foot radius curve to the left, (center bears North 82°35'35" East and long chord bears South 31°10'48" East 24.19 feet, with a central angle of 47°32'45"); Thence southeasterly 75.46 feet along the arc of a 50.00 foot radius curve to the right, (center bears South 35°02'50" West and long chord bears South 11°43'04" East 68.50 feet, with a central angle of 86°28'13"); Thence South 83°00'56" East 129.48 feet; Thence South 88°21'56" East 11.70 feet to the Northwest Corner of The Village at Old Farm P.U.D. - Phase 1; Thence South 117.53 feet along the west line to the Southwest Corner of The Village at Old Farm P.U.D. - Phase 1; Thence North 89°36'05" West 26.20 feet; Thence South 88°49'40" West 97.31 feet; Thence South 88°26'50" West 114.93 feet to the northerly line of Old Shepard Creek Subdivision; Thence North 89°34'01" West 287.17 feet along the north line to the Northwest Corner of Old Shepard Creek Subdivision, said point also being the Northeast Corner of Old Shepard Commons Subdivision; Thence North 89°34'01" West 512.92 feet along the north line of said Old Shepard Commons to the easterly line of State Road No. 89; Thence North 21°25'49" West 333.31 feet along the easterly line of State Road No. 89 to the point of beginning.

Contains 623,822 square feet, 14.321 acres, 69 units.