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**NEIGHBORHOOD DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, AND RESERVATION OF EASEMENTS
FOR
ORCHARD FARMS SINGLE FAMILY RESIDENCES,
a part of the Orchard Farms Planned Residential Unit Development (PRUD)**

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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
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LOCATED IN DAVIS COUNTY, UTAH

AFTER RECORDING PLEASE RETURN TO:

**Fairview Estates, LLC
Christopher P. Gamvroulas
978 East Woodoak Lane
Salt Lake City, Utah 84117
(801) 747-7440**

**NEIGHBORHOOD DECLARATION OF COVENANTS, CONDITIONS,
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FOR
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a part of the Orchard Farms Planned Residential Unit Development (PRUD)**

This Neighborhood Declaration of Covenants, Conditions, Restrictions, and Reservation of Easements for Orchard Farms Single Family Residences, a part of the Orchard Farms Planned Residential Unit Development (PRUD) (the "Neighborhood Declaration") is executed by Fairview Estates, LLC, a Utah limited liability company, of 978 East Woodoak Lane, Salt Lake City, Utah 84117 (the "Declarant").

RECITALS

- A. The Tract is an area featuring unique and distinctive terrain;
- B. By subjecting the Tract to this Neighborhood Declaration, it is the desire, intent and purpose of Declarant to create a Single Family Residences development in which beauty shall be substantially preserved, which will enhance the desirability of living on or visiting real estate subject to this Neighborhood Declaration, and which will increase and preserve the utility, attractiveness, quality and value of the lands and improvements therein.
- C. This Neighborhood Declaration affects that certain real property located in the City of Fruit Heights in Davis County, Utah described with particularity in Article II below (hereinafter referred to as the "Tract").
- D. Declarant is the owner of the Tract.
- E. The Tract is subject to and bound by the Master Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Orchard Farms, Planned Residential Unit Development (PRUD) recorded in the official records of the County Recorder of Davis County, Utah on 5-16-2011 as Entry No. 2598884 in Book 5274 at Page(s) 402 - 463 (the "Master Declaration").
- F. The Tract is subject to the Reciprocal Use Easement.
- G. Declarant has constructed or is in the process of constructing upon the Tract a Single Family Residences Neighborhood, as part of a larger planned residential unit development, which shall also include condominium units, detached single family residences, common area for the entire development and some common area exclusive to a particular neighborhood. This Tract shall include certain Buildings and Lots intended for detached single family residences, an Entry Monument, and other improvements of a less significant nature. The Tract may include Common Area and Exclusive Common Area. The construction will be completed in accordance with the plans contained in the Final Plat and the Final Plat for the Orchard Farms Single Family Residences Neighborhood to be recorded concurrently herewith.
- Orchard Homes Single Family Residences, a part of the Orchard Farms Planned Residential Unit Development

H. Declarant intends to sell to various purchasers the fee title to the individual Lots contained in the Tract, together with an appurtenant undivided ownership interest in the Subassociation, subject to the provisions of the Final Plat for the Orchard Farms Single Family Residences Neighborhood, Neighborhood Declaration, Master Declaration and Final Plat.

I Declarant desires, by filing this Neighborhood Declaration and Final Plat for the Orchard Farms Single Family Residences Neighborhood, to submit the property and all improvements now or hereafter constructed thereon to the provisions, covenants, conditions, restrictions and easements set forth herein and in the Master Declaration.

J. The Tract is to be known as "Orchard Farms Single Family Residences."

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

COVENANTS, CONDITIONS, AND RESTRICTIONS

NOW, THEREFORE, for the reasons recited above and subject to the covenants, conditions, restrictions and easements set forth below and in the Master Declaration, Declarant hereby makes the following declaration for the Tract to be known as the Orchard Farms Single Family Residences, a part of the Orchard Farms Planned Residential Unit Development (PRUD):

I. DEFINITIONS

When used in this Declaration (including in that portion hereof entitled "Recitals"), each of the following terms shall have the meaning indicated. Terms defined in the Master Declaration shall have the same meaning as set forth therein unless the context clearly requires otherwise. In the event of any conflict between the definitions set forth in the Master Declaration and the definitions set forth herein, the former shall in all respects govern and control.

1. The term Additional Charges shall mean and refer cumulatively to all collection and administrative costs, including but not limited to all attorneys fees, late charges, accruing interest, service fees, filing and recordation fees, and other expenditures incurred or charged by the Subassociation.

2. The term Architectural Review Committee shall mean the person or persons appointed to review the designs, plans, specifications, homes, architecture, fencing, and landscaping within Orchard Farms Single Family Residences Neighborhood (the "ARC").

3. The term Area of Neighborhood Responsibility shall mean and refer to that certain area and those certain improvements for which the Subassociation is responsible.

4. The term Area of Personal Responsibility shall mean and refer to that certain area and those certain improvements, such as the privately owned Lot, for which the Owner is responsible.

5. The term Articles of Incorporation shall mean and refer to the Articles of Incorporation of Orchard Farms Single Family Residences Subassociation on file or to be filed with the State of Utah.

6. The term Assessment shall mean and refer to any amount imposed upon, assessed or charged an Owner, such as a Master Assessment and Neighborhood Assessment.

7. The term Board of Directors shall mean and refer to the governing board or management committee of the Subassociation.

9. The term Building shall mean and refer to any of the structures constructed in the Tract.

10. The term Bylaws shall mean and refer to the Bylaws of the Subassociation, a copy of which is attached hereto, marked Exhibit "B," and incorporated herein by this reference.

11. The term Capital Improvement or Addition shall mean and refer to a permanent addition to or the betterment of real property that enhances its capital value and improves the expenditure of labor or money and is designed to make the property more useful or valuable as distinguished from ordinary repairs.

12. The term City shall mean and refer to the City of Fruit Heights in Davis County, Utah.

13. Common Area and Facilities shall mean and refer to all real property located within the entire Orchard Farms Planned Residential Unit Development, of which the Tract is a part, designated as "Common Area" in the Master Declaration and the Final Plat.

14. The term Community shall mean and refer to Orchard Farms Single Family Residences Neighborhood or if the context clearly requires the Tract.

15. The term Community Standard shall mean and refer to the standard of conduct, maintenance, or other activity generally prevailing in Orchard Farms Single Family Residences Neighborhood, as determined by the Board of Directors from time to time.

16. The term Covenant to Share Costs shall mean and refer to any contract, agreement, declaration of easement, licenses and/or covenant to share costs executed by the Declarant or the Subassociation and recorded in the Office of the County Recorder which creates easements for the benefit of the Owners subject to such Covenant to Share Costs, and/or which obligates the Subassociation to share the costs of maintaining certain real, personal or mixed property described therein.

17. The term Dedicated Streets shall mean and refer to those streets and cul-de-sacs within the Orchard Farms Single Family Residences Neighborhood formally dedicated to the City or any other municipal or governmental body politic, entity or agency.

18. The term Delegate shall mean and refer to the designated Voting Representative of the Subassociation serving as a Director of the Master Association.

19. The term Design Guidelines shall mean and refer to the design guidelines adopted by the Declaration for the improvements constructed within the Tract.

20. The term Declarant shall mean and include Fairview Estates, LLC and any person or persons who might acquire title from it to all or some of the unsold Single Family Residences through purchase, assignment or other transfer including foreclosure or deed in lieu of foreclosure; or, in the situation where, any person purchases all, or some of the remaining Single Family Residences in a sale in the nature of a bulk sale. The person acquiring any of such property from the Declarant shall be considered a Declarant with respect to that portion of the property so acquired and shall have the right to develop the property and/or sell such property in accordance with the terms and provisions of this Neighborhood Declaration and this Neighborhood Declaration; provided, however, a notice of succession shall be recorded in the Office of the County Recorder signed by both the current Declarant and by its successor in interest as the new Declarant.

21. The term Developmental Rights shall mean and refer to the right granted hereunder to the Declarant, its agents, representatives, employees, successors and assigns, to develop and improve the Tract.

22. The term Dwelling or Dwelling Unit shall mean and refer to the dwelling, home or living unit constructed upon a Lot within the Tract.

23. The term Eligible Guarantor shall mean and refer to a governmental guarantor of a mortgage or trust deed who has requested notice in writing of certain matters from the Subassociation in accordance with the Neighborhood Declaration.

24. The term Eligible Insurer shall mean and refer to an insurer of a mortgage or trust deed who has requested notice in writing of certain matters from the Subassociation in accordance with this Neighborhood Declaration.

25. The term 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 Subassociation in accordance with this Neighborhood Declaration.

26. The term Eligible Votes shall mean and refer to those votes available to be cast on any issue before the Subassociation or the Board of Directors. A vote which is for any reason suspended is not an "eligible vote".

27. The term Exclusive Common Area shall mean and refer to that real property located within the Tract owned by the Subassociation and intended for the exclusive use or primary benefit of this Tract.

28. The term Final Plat shall mean and refer to the recorded Final Plat for the entire Orchard Farms Planned Residential Unit Development.

29. The term Final Plat for the Orchard Farms Single Family Residences Neighborhood shall mean and refer to the Final Plat for the Orchard Farms Single Family Residences Neighborhood, the official map of Orchard Farms Single Family Residences Neighborhood as approved by the City and on file in the Office of the County Recorder.

30. The term Guest shall mean and refer to the guest, family member, invitee, licensee, and any person visiting an Owner or a Resident on a temporary basis.

31. The term Improvement shall mean and refer to any physical change or addition to the Land to make it more valuable.

32. The term Individual Charge shall mean and refer to a charge levied against an Owner by the Board of Directors resulting from the act or omission of such Person, including:

(a) Bodily injury to any Person;

(b) Property damage;

(c) Any transient occupancy tax, sales tax, use tax or other tax levied pursuant to the laws of the State of Utah and payable by such person which the Subassociation is or shall be required or entitled to collect on behalf of the levying authority, although this subsection is not considered an acknowledgment that any such tax may be levied.

Individual Charges may be assessed, secured and collected like any other Assessment.

33. The term Land shall mean and refer to all of the real property subject to this Neighborhood Declaration or if the context clearly requires the Master Declaration.

34. The term Landscaping shall mean and refer to the grass, trees, shrubs, bushes, flowers, plants, park strip landscaping, open space, and like improvements located within the Tract or within the Orchard Farm Properties, as well as the appurtenant sprinkler, irrigation and water drainage systems.

35. The term Lender shall mean and refer to a Mortgagee.
36. The term Lot shall mean and refer to a separate physical part of the Tract intended for independent use, identified herein and on the Final Plat for the Orchard Farms Single Family Residences Neighborhood as a "Lot." Each Lot shall be assigned a separate "parcel" or tax identification number by the appropriate governmental agency.
37. The term Lot Number shall mean and refer to the number, letter or combination thereof designating a particular Lot, identified on the Final Plat for the Orchard Farms Single Family Residences Neighborhood as a "Lot Number."
38. The term Majority shall mean and refer to those eligible votes of Owners or other groups as the context may indicate totaling more than 50.01% of the total eligible number.
39. The term Map shall mean and refer to Orchard Farms Single Family Residences Final Plat for the Orchard Farms Single Family Residences Neighborhood or where the context clearly requires the Final Plat.
40. The term Master Assessment shall mean and refer to the charge for maintenance, repair, replacement, operation and administration assessed each Owner and/or Single Family Residences by the MHOA to pay the Master Common Expenses, and shall include an amount to fund an adequate reserve fund or funds.
41. The term Master Association or MHOA shall mean and refer to the Master Association for the Orchard Farms Planned Residential Unit Development acting as a group in accordance with the Master Declaration.
42. The term Master Declaration shall mean and refer to the Master Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements, and Bylaws for the Orchard Farms Planned Residential Unit Development (PRUD).
43. The term Master Common Expenses shall mean and refer to the Common Expenses incurred by the MHOA.
44. The term Neighborhood shall mean and refer to this Tract in particular and in general any residential or recreational area within the Tract which is designated by the Declarant as a Neighborhood, whether or not governed by a Neighborhood Subassociation. By way of illustration and not limitation, a Neighborhood of Single Family Residences or Twin Homes might each be designated as a separate Neighborhood or combined as one Neighborhood. A Neighborhood may be comprised of more than one housing type. In addition, a parcel of land intended for development as any of the above may constitute a Neighborhood, subject to division into more than one Neighborhood upon development. The designation of "Neighborhood" by the Declarant is subject to change by the Declarant.
45. The term Neighborhood Common Expense shall mean and refer to:
Orchard Homes Single Family Residences, a part of the Orchard Farms Planned Residential Unit Development

- (a) All sums lawfully assessed against the Owners;
- (b) Expenses of administration of the MHOA, the Subassociation, and the maintenance, repair or replacement of the Exclusive Common Area and Facilities particular to Orchard Farms Single Family Residences Neighborhood and not covered by or part of the Master Common Expenses;
- (c) Expenses allocated by the MHOA or Subassociation among the Owners;
- (d) Expenses agreed upon as Neighborhood Common Expenses by the MHOA or the Subassociation;
- (e) Expenses declared Neighborhood Common Expenses by the Master Declaration or this Neighborhood Declaration; and/or
- (f) The Subassociation's share of the Master Common Expenses.

46. The term Neighborhood Declaration shall mean and refer to this Neighborhood Declaration of Covenants, Conditions and Restrictions for the Orchard Farms Single Family Residences, a part of the Orchard Farms Planned Residential Unit Development (PRUD).

47. The term Neighborhood Subassociation shall mean and refer to the Subassociation of Owners in the Tract acting as a group in accordance with this Neighborhood Declaration.

48. The term Office of the County Recorder or County Recorder shall mean and refer to the Office of the County Recorder of Davis County, Utah.

49. The term Open Space shall mean and refer to in the event that Davis County or the City of Fruit Heights shall adopt an ordinance which contains a definition of the term "open space" and which makes such definition applicable to the burdened parcel as noted on the Final Plat, that definition, which shall be incorporated into this easement by reference. In the absence of such a definition, the term "open space" shall mean land on which improvements and activities shall be permitted and prohibited as designated in subsections (a) and (b), respectively.

(a). Permitted. The following improvements and activities shall be permitted: pasture, unimproved land, landscaping, trails, green space, and planting beds.

(b) Prohibited. The following improvements and activities shall be prohibited: temporary or permanent buildings or building-type structures or any kind, impervious surfaces other than those used only for activities permitted by Subsection 1.29.1 hereof, operation, parking or storage of motorized vehicles of any kind except those used for landscaping maintenance, machinery which is affixed to the property and which can be seen or

heard from adjacent property, noxious or offensive activities of any kind, any activity which is or which may become a nuisance, and dumping or storage of refuse, garbage or other waste.

The Open Space as shown on the Final Plat may not be altered or removed without the express prior written consent of the City.

50. The term Owner shall mean and refer to a Person who is the owner of a fee or an undivided fee interest in a Lot, excluding 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.

51. The term Period of Declarant's Control shall mean and refer to the period of time during which there is Class B voting and the Declarant controls the Board of Directors.

52. The term Permittee shall mean a Person permitted on the Property by an Owner, Resident or Guest.

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

54. The term Plans and Specifications shall mean and refer to any and all documents designed to guide or control the construction of an Improvement, or alterations, modifications, changes, additions and the like thereto, including without limitation all documents indicating the size, shape, configuration and/or materials, to be incorporated; all site plans, excavation and grading plans, elevation drawings, floor plans, techniques, samples of exterior colors, plans for utility services, and all other documentation or information relevant to the improvement or proposal in question.

55. The term Private Street, Road, Cul-de-sac, Way or Drive shall mean and refer to those streets, roads, cul-de-sacs, ways, drives or turnabouts within Orchard Farms Single Family Residences Neighborhood not dedicated to the City or any county, state, or other governmental body politic, entity or agency.

56. The term Project shall mean and refer to all of the real property and improvements submitted to the Master Declaration as described in the Final Plat, unless the context clearly requires otherwise.

57. The term Project Documents shall mean and refer collectively to the Master Declaration, Final Plat, Master Bylaws, Master Rules and Regulations, and the Articles of Incorporation for the Master Association as well as this Neighborhood Declaration and Bylaws, the Neighborhood Rules and Regulations and the Articles of Incorporation for the Subassociation.

58. The term Property shall mean and refer to the Tract unless the context clearly requires otherwise.

59. The term Property Manager shall mean and refer to the professional manager or management company appointed or hired by the Subassociation to manage or assist in the management of the Tract and/or assist in the administration of the Subassociation.

60. The term Property Subject To The Reciprocal Use Easement shall mean and refer to the real estate subject to the Reciprocal Use Easement located in Davis County, Utah and described with particularity on Exhibit "B" attached hereto and incorporated herein by this reference.

61. The term PRUD Standard shall mean and refer to the standard of conduct, maintenance, or other activity generally prevailing in the Orchard Farms Planned Residential Development as a whole, as determined by the Board of Directors for the Master Association from time to time.

62. The term Reciprocal Use Easement shall mean and refer to the non-exclusive and irrevocable right of way and easement of enjoyment reserved by the Declarant and granted to the Owner to access, use and enjoy the Common Areas and Facilities at the Orchard Farms Properties, including by way of illustration but not limitation the Roads and Landscaping. The terms and operating agreement of the Reciprocal Use Agreement are set forth in Exhibit "B" attached hereto and incorporated herein by this reference.

63. The term 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 or commercial transportation device of any kind.

64. The term Repair shall mean and refer to merely correcting the damage done sometimes by accident or fire or other cause, but more often due to the ravages of time and the deterioration resulting from ordinary wear and tear, by substituting for the damage, decayed or worn-out parts, new material, usually similar to that replaced, and so restoring the structure to its original sound condition.

65. The term Resident shall mean and refer to any person living or staying at the Tract, including but not limited to natural person or persons residing in a detached single family residence.

66. The term Road shall mean and refer collectively to the Dedicated Streets, Roads and Cul-de-Sacs and Private Streets, Roads, Cul-de-Sacs, Ways, Drives and Parking Spaces located within the Tract or within the Orchard Farms Properties.

67. The term Single Family shall mean and refer to one of the following: (a) a single person, (b) a group of natural persons related to each other by blood or legally related to each other by marriage or adoption, and an additional person or persons as a caretaker or as domestic help, or (c) a group of not more than three (3) unrelated persons who maintain a common Orchard Homes Single Family Residences, a part of the Orchard Farms Planned Residential Unit Development

household; provided, however, a group occupying a Lot as boarding house, club, fraternity or hotel shall not be considered a "single family."

68. The term Single Family Residence shall mean and refer to both the architectural style of a Dwelling Unit and the nature of the residential use permitted.

69. The term Subassociation shall mean and refer to the Subassociation of Owners at the Tract taken or acting as a group in accordance with this Neighborhood Declaration.

70. The term Total Votes of the Subassociation shall mean and refer to the total number of votes appertaining to all Single Family Residences and Lots in the Tract and the Declarant's votes.

72. The term Tract shall mean and refer to all of the real estate submitted to this Neighborhood Declaration.

73. The term Use Restrictions shall mean and refer to the use restrictions governing the Tract.

74. The term Voting Group shall mean and refer to a voting group so designated by the Declarant such as a Neighborhood designated by the Declarant.

75. The term Voting Representative shall mean and refer to the Director responsible for casting the votes allocated to his or her Neighborhood Voting Group.

II. SUBMISSION

The Tract, described with particularity on Exhibit "A" attached hereto and incorporated herein by this reference, is hereby submitted to the Declaration.

The Tract is hereby again made subject to, and shall be governed by the Declaration, and the covenants, conditions and restrictions set forth herein.

The Property is SUBJECT TO the described easements and rights of way.

TOGETHER WITH (a) all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described parcel of real property; and (b) all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the Common Area and Facilities.

ALL OF THE FOREGOING IS SUBJECT TO: The Master Declaration and this Declaration; 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 Orchard Homes Single Family Residences, a part of the Orchard Farms Planned Residential Unit Development

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 Final Plat for the Orchard Farms Single Family Residences Neighborhoods or otherwise existing; an easement for each and every Common Area and Facilities 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 and Facilities improvements, equipment, pipes, lines, cables, wires, utility systems, and similar facilities.

The Tract is subject to the non-exclusive and irrevocable Reciprocal Use Easement described in the Master Declaration.

III. COVENANTS, CONDITIONS, AND RESTRICTIONS

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

1. Description of Improvements. The significant improvements contained in the initial Phase of the Orchard Homes Single Family Residences Project include or will include Lots and certain Common Area and/or Exclusive Common Area. The Orchard Homes Single Family Residences Project may also contain other improvements of a less significant nature. The location and configuration of the improvements referred to in the foregoing sentences are depicted on the Final Plat for the Orchard Farms Single Family Residences Neighborhood.

2. Description and Legal Status of the Property. The Final Plat for the Orchard Farms Single Family Residences Neighborhood shows the type and location of each Lot and its Lot Number. All Lots shall be capable of being privately and independently owned, encumbered, and conveyed, and shall have separate tax identification or parcel numbers.

3. Membership in the Subassociation and Voting Allocations. Membership in the Subassociation is mandatory and may not be partitioned from the ownership of a Lot. Each Owner by virtue of his accepting a deed or other document of conveyance to a Lot is deemed to be a member of the Subassociation.

3.1 The Subassociation shall have two classes of membership -- Class A and Class B, described more particularly as follows:

3.1.1 Class A. Class A Members shall be all Owners with the exception of the Class B Members, if any.

3.1.2 Class A Members shall be entitled to vote on all issues before the Subassociation to, subject to the following:

Orchard Homes Single Family Residences, a part of the Orchard Farms Planned Residential Unit Development

3.1.2.1 Each Lot shall have one (1) vote;

3.1.2.2 No vote shall be cast or counted for any Lot not subject to assessment;

3.1.2.3 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 Subassociation 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.

3.1.2.4 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 of the Subassociation at least three (3) days prior to any meeting.

3.1.3 The Class B Member shall be the Declarant and any successor of Declarant who takes title for the purpose of development and sale of Lots in the Orchard Farms Single Family Residences Project and who is designated as such in a recorded instrument executed by Declarant.

3.1.3.1 The Class B Member shall originally be entitled to three (3) votes per Lot owned; provided, however, under no circumstances shall Declarant or its successors or assigns have fewer than one (1) more vote than all class A votes combined.

3.1.3.2 The Class B membership shall convert to Class A membership one hundred and twenty (120) days after the expiration of the Period of Declarant's Control. Thereafter 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 Subassociation for special meetings, to advise the Owners of the termination of Class B status and, if it has not already occurred, to schedule transition of the operation and management of the Orchard Homes Single Family Residences Project to a Board of Directors elected by the Owners, subject to the master Declaration

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. _____ contained within ORCHARD HOMES SINGLE FAMILY RESIDENCES, PHASE [], a Utah Planned Residential Unit Development, as the same is identified in the Final Plat for the Orchard Farms Single Family Residences Neighborhood recorded in Davis County, Utah as Entry No. _____: _____ at Page _____ of the official records of the County Recorder of Davis County, Utah (as said Final Plat Orchard Homes Single Family Residences, a part of the Orchard Farms Planned Residential Unit Development

for the Orchard Farms Single Family Residences Neighborhood may have heretofore been amended or supplemented) and in the Declaration of Covenants, Conditions, and Restrictions of Orchard Homes Single Family Residences, recorded in Davis County, Utah as Entry No. _____ in Book _____ at Page _____ of the official records of the County Recorder of Davis County, Utah (as said Declaration may have heretofore been supplemented), together with a membership in the Subassociation and the right to use and easement of enjoyment for the Common Area and Facilities, and any Exclusive Common Area for this Neighborhood, subject to provisions of the Master Declaration of Covenants, Conditions and Restrictions, and Reservations of Easements for Orchard Farms Planned Residential Unit Development (PRUD) recorded as Entry No. _____: _____, at Pages _____ of the Official Records of the County Recorder of Davis County, Utah and corresponding Master Final Plat for the Orchard Farms Planned Residential Unit Development (PRUD) recorded in Davis County, Utah as Entry No. _____: _____ at Page _____ of the official records of the County Recorder of Davis County, Utah (as set forth in the Final Plat or the Final Plat for the Orchard Farms Single Family Residences Neighborhood as originally constituted or as they may have heretofore been amended or supplemented).

Regardless of whether or not the description employed in any such instrument is in the above-specified form, all provisions of the Project Documents shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot. Membership in the Subassociation and the right to use and easement of enjoyment for the Common Area and Facilities, and any Exclusive Common Area for this Neighborhood, shall be not be separated from the Lot to which they appertain; and, even though not specifically mentioned in the instrument of transfer, such mandatory Membership in the Subassociation and the right to use and easement of enjoyment for the Common Area and Facilities, and any Exclusive Common Area for this Neighborhood shall automatically accompany the transfer of the Lot to which they relate.

5. 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 any Person. The Property shall be used only for residential purposes, except as expressly set forth below, and the Common Area and Facilities shall only be used in a manner consistent with the residential nature of the entire Orchard Homes Project.

8 Easements and Rights of Way. Declarant hereby grants and conveys to the Subassociation and each Owner the non-exclusive and perpetual right to use and access the Common Area and Exclusive Common Area, subject to the Master Declaration and this Neighborhood Declaration. In addition, every Member of the Subassociation shall as an Owner have the right and non-exclusive easement to use and enjoy the Common Area and/or Exclusive Common Area. Such rights and easements shall be appurtenant to and shall pass with the title to every Lot, subject to the following restrictions: (1) The right of the MHOA and Subassociation to limit the number of Residents and Permittees; (2) The right of the Subassociation to suspend Orchard Homes Single Family Residences, a part of the Orchard Farms Planned Residential Unit Development

the voting privilege; and (3) The right of the MHOA and/or Subassociation to dedicate or transfer all or any part of the Common Area and/or Exclusive 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 Declarant's Period of Control, any such dedication or transfer shall be effective only if approved in writing by the Declarant. Each Owner by virtue of his acceptance of a deed or other document of conveyance shall be entitled to the exclusive ownership and possession of his or her Lot, membership in the Subassociation, and the right to use and easement of enjoyment for the Common Area and/ or Exclusive Common Area for this Neighborhood as set forth herein.

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

10. Rules and Regulations. The Subassociation, acting through its Board of Directors, shall have the power and authority to adopt administrative or house rules and regulations, which shall be binding upon all Owners and Residents.

11. Reasonable Rights to Develop. No rule or action by the Subassociation or Board of Directors shall unreasonably impede Declarant's right to develop the Tract and Property in accordance with the Master Plans, including, but not limited to, the rights of the Declarant as set forth herein.

12. Rules and Rights of Owners. Except as may be specifically set forth below, and subject to City ordinances and the Master Declaration, whichever is more restrictive, neither the Board of Directors nor the Subassociation may adopt any rule in violation of the following provisions:

12.1 Similar Treatment. Similarly situated Owners and Residents shall be treated similarly.

12.2 Religious and Holiday Displays. The rights of Owners and Residents to display religious and holiday signs, symbols, and decorations on their Lots of the kinds normally displayed in residences located in single family residential Neighborhoods shall not be abridged, except that the Subassociation may adopt time, place, and manner restrictions regulating displays which are visible from outside the Lot.

12.3 Household Composition. No rule shall interfere with the freedom of occupants of Lots to determine the composition of their households, except that the Declaration limits residency in a Dwelling to a single family and the Subassociation shall have the power to Orchard Homes Single Family Residences, a part of the Orchard Farms Planned Residential Unit Development

limit the total number of occupants permitted in each Dwelling on the basis of the size and facilities of the Dwelling and its fair share use of the Common Area and Facilities.

12.4 Activities Within Lots. No rule shall interfere with the activities carried on within the confines of Lots, except that the Subassociation may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Subassociation or other Owners, that create a danger to the health or safety of occupants of other Lots, that generate excessive noise or traffic, that create unsightly conditions visible from outside the Lot, or that create an unreasonable sounds of annoyance.

12.5 Allocation of Burdens and Benefits. No rule shall alter the basis for allocation of financial burdens among various Lots or rights to use the Common Area and/or Exclusive Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the MHOA and/or Subassociation, respectively. Nothing in this provision shall prevent the Subassociation from changing the use of the Exclusive Common Area, from adopting generally applicable rules for use of Common Area and Facilities, or from denying use privileges to those who abuse the Common Area and Facilities, violate the Project Documents, or fail to pay Assessments. This provision does not affect the right of the MHOA or Subassociation to increase or decrease the amount of Assessments.

12.6 Abridging Existing Rights. Any rule which would require Owners to dispose of personal property being kept on the Property shall apply prospectively only and shall not require the removal of any property which was being kept on the Property prior to the adoption of such rule and which was in compliance with all rules in force at such time unless otherwise required to be removed by law. The limitations in this subsection shall apply to rules only; they shall not apply to amendments to this Declaration.

13. Initial Use Restrictions and Nature of the Orchard Homes Single Family Residences Project. The Lots are subject to the following initial use restrictions which shall govern both the architecture and the activities within the Property:

13.1 Private Residence. No Lot shall be used except for residential purposes (except as set forth below) and all residents shall be obligated by the following requirements: No temporary structure including trailers, tents, shacks, garages, barns or other outbuildings shall be used on any Lot at any time.

13.2 Business Use. No resident may operate a commercial trade or business in or from his Lot with employees of any kind. No commercial trade or business may store any inventory over 250 cubic feet, and it must be contained within the Lot. No commercial trade or business may be conducted in or from a Lot unless (a) the business activity conforms to all home occupation and zoning requirements governing the Orchard Homes Single Family Residences Project; (b) the operator has a city issued business license; (c) the business activity satisfies the Home Occupation Guidelines adopted by the Board of Directors, as they may be modified from time to time; and (d) the resident has obtained the prior written consent of the Board of Directors.

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Notwithstanding the foregoing, the leasing of a Lot shall not be considered a trade or business within the meaning of this subsection.

13.3 Storage and Parking of Vehicles. The driving, parking, standing, and storing of motor vehicles in, on or about the Property shall be subject to rules and regulations adopted by the Neighborhood Association. 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 constructed. The Subassociation may immobilize, tow and impound vehicles at the owner's risk and expense without further notice or warning.

13.4 Garbage Disposal. No Lot shall be used as a dumping ground. All trash, garbage, debris, rubbish or other waste shall be kept in a sealed, sanitary bag or container, and stored out of sight except for a twenty-four (24) hour period on pick-up days.

13.5 Aerials, Antennas, and Satellite Systems. Subject to the applicable FCC guidelines, no aerials, antennas, satellite dishes or systems shall be erected, maintained or used in, on or about any Lot or Dwelling, outdoors and above ground, whether attached to or on top of any building, structure or Dwelling without the prior written consent of the Declarant or upon the expiration of the Period of Declarant's Control the Board of Directors, which shall not be unreasonably withheld. In making its decisions, the Declarant or upon the expiration of the Period of Declarant's Control the Board of Directors shall insofar as is reasonably possible without impairing reception, satellite dishes, aerials and antennae shall be positioned so that they are screened from view from the street.

13.6 Animals and Pets. Large animals as that term is defined by City Ordinance are not allowed. No pets, animals, livestock, or poultry of any kind may be commercially bred at the Property. Up to two (2) domestic pets as that term is defined by City Ordinance per Lot are allowed; provided, however, pets must be properly licensed and registered. Pets may not create a nuisance. The following acts or omissions shall be considered a nuisance: (a) causing damage to the property of anyone other than the pet owner; (b) causing unreasonable fouling of the air by odors; (c) causing unsanitary conditions; (d) running loose throughout the Property and not in a cage or on a leash and under the control of a responsible person; (e) barking, howling, whining, or making other disturbing noises in an excessive, continuous or untimely fashion; (f) molesting or harassing passersby by lunging at them or chasing passing vehicles; (g) attacking or threatening to attack people or other domestic animals; (h) otherwise acting so as to bother, annoy or disturb the sensibilities of a reasonable person or interfering with the right of residents to the peaceful and quiet enjoyment of their property; (i) the mere number of pets maintained creates an offensive or dangerous condition to the health, welfare or safety of other residents; or (k) violating a City pet ordinance.

13.7 Signs. No signs, billboards or advertising structures or devices of any kind may be built, installed or displayed on the Property or any Lot except for a single sign with a maximum size of 2' x 2' for specific purpose of advertising the sale of a Dwelling; provided, however, this restriction does not apply to and is not binding upon the Declarant, who may use Orchard Homes Single Family Residences, a part of the Orchard Farms Planned Residential Unit Development

whatever signs it deems appropriate to market its Lots. "For Rent" or "For Lease" signs in the Common Area, on a Lot, or showing from a Dwelling Unit are prohibited.

13.8 Zoning. All land use and buildings shall be in compliance with all zoning and land use ordinances as well as all regulations of the municipalities and agencies governing the Property land use and buildings.

13.9 Nuisances. No noxious or offensive activity shall be carried on, in or about the Property, nor shall anything be done or permitted thereon which may be or may become an annoyance, disturbance, bother or nuisance to the Neighborhood, or which might interfere with the right of other residents to the quiet and peaceful enjoyment of their property.

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

13.11 Neighborhood. This Property is located by and is subject to the normal, everyday sounds, odors, and all other aspects associated with the nearby manufacturing area and an outdoor entertainment venue.

13.12 Laws. Nothing shall be done or kept in, on or about any Lot 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.

13.13 Damage or Waste. Each Owner shall repair any damage he or any other residents, guests, or invitees of his Lot may cause to another Owner, Lot, or Dwelling, and promptly restore the property to its original condition.

14. Community Enhancement or Reinvestment Fee. Upon the sale of a Lot, the Seller or Buyer shall pay to the Subassociation a community enhancement fee or reinvestment fee in an amount determined by the Board of Directors if no such fee is assessed by the Master Association.

15. Architectural Review Committee. The Architectural Review Committee (the "ARC") shall have the right, power and authority to resolve all architectural, design and related issues. The Declarant and upon the termination of the "Period of Declarant's Control," the Board of Directors has the sole right and exclusive authority to appoint all members of the ARC, subject to the Master Declaration. In the event of any conflict, incongruity or inconsistency between a decision of Declarant (or at the termination of the Period of Declarant's Control, the Board of Directors) and the ARC, the former shall in all respects govern and control.

15.1 ARC Powers and Standing. Any instrument executed by the ARC or its legal representative that recites facts which, if true, would establish the 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.

15.1.1 The ARC shall constitute a legal entity capable of dealing in its own name or in behalf of two or more Owners; and

15.1.2 The ARC shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Section and its decisions.

15.2 Landscaping. All Lot landscaping, grading, and drainage shall be completed strictly in accordance with the landscaping or Design Guidelines required by the City and/or the Declarant or upon the termination of the Period of Declarant's Control the Board of Directors and so as to comply with and not impair all applicable ordinances and flood control requirements.

15.2.1 All Lot landscaping, including the installation of an automatic sprinkler/irrigation system, planting of trees and laying of sod, must be completed within nine (9) months of the date of closing on the purchase of a home.

15.2.2 Landscaping shall include by way of illustration but not limitation the planting of a lawn and/or other appropriate ground cover, planting beds and flower beds, appropriate bushes and shrubs, and the planting of trees in accordance with the Street Tree Planting Plan, a copy of which is attached hereto, marked Exhibit "B" and incorporated herein by this reference. All replacement trees must also satisfy the requirements of the Street Tree Planting Plan.

15.2.3 The Owner is responsible for the initial planting of trees. At closing, a certificate for the required street trees of 1 and ½ inch caliper will be provided to the buyers.

15.2.4 Trees, lawns, shrubs, or other plantings placed on a Lot shall be properly nurtured, maintained and replaced by the Owner.

15.2.5 Any weeds or diseased or dead lawn, trees, ground cover, bushes or shrubs shall be removed and replaced.

15.2.6 All trees, bushes and shrubs shall be pruned, trimmed and topped as necessary.

15.2.7 No concrete, cement or masonry products, pavers, brick, stone, cobblestone, tile, terrazzo, slabs, slate, rocks, pebbles, gravel, permeable pavements and so forth or other artificial or impermeable surfaces (collectively "controlled surfaces") may be installed or constructed as landscaping in the front, side or rear yards of a Lot without the express prior written consent of the Declarant or upon the termination of the Period of Declarant's Control the Board of Directors.

15.2.8 Front, side or rear yards constructed primarily or substantially of controlled surfaces are prohibited.

15.2.9 The landscaping of a Lot may not adversely affect the value or use of any other property or detract from the original design scheme and appearance of the Property.

15.2.10 All landscaping shall be maintained and cared for in a manner consistent with Community-Wide Standards and the quality of design and construction originally established by Declarant.

15.2.11 If the Board of Delegates and/or Board of Directors determines that any Owner has failed or refused to maintain his landscaping or that the need for maintenance, repair, or replacement of the Common Area and Facilities is caused by the willful or negligent act of any Owner or Permittee, and the claim, damage, loss or liability is not covered or paid by insurance, either in whole or in part, then the MHOA or Subassociation may, but is not obligated to, provide such maintenance, repair or replacement at the Owner's sole cost and expense, subject to the following:

15.2.12 Except in an emergency situation, the MHOA or Subassociation shall give the Owner written notice of its 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 Board of Delegates and/or Board of Directors. 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. If the Board of Delegates and/or Board of Directors determines that an emergency exists which threatens imminent and substantial harm to person or property, then prior notice and the opportunity to cure the default is not necessary or required. The Subassociation may, but is not obligated to, provide any such required maintenance, repair, or replacement in the manner described above. Such costs as are incurred by the MHOA or Subassociation hereunder shall be considered an Individual Charge.

15.2.13 In addition, should any Owner fail to comply with the landscaping requirements and provisions of this Section, the Declarant, City, Subassociation, MHOA, Board of Directors, Board of Delegates or an aggrieved Owner shall have the right to seek an order from a court of proper jurisdiction requiring specific performance to comply with the provisions hereof or to recover damages, or both, and shall also have the authority but not the obligation to complete the landscaping or restore the property to its original condition without being guilty of a trespass, and require the Owner to pay the cost of labor and materials. The costs and expenses incurred, including a reasonable attorneys fee, whether or not a lawsuit is filed, shall be considered the personal obligation of the Owner and shall constitute a lien on the interest of the Owner in such property, enforceable at law or equity, until payment is made.

15.3 Landscaping and the City Right of Way. All trees, shrubs, bushes and plants planted within the City right of way shall satisfy the following requirements:

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15.3.1 All trees shall be installed as 2-inch caliper.

15.3.2 All shrubs shall be installed as a 5-gallon size.

15.3.3 All City owned property shall be maintained by the City including City trails, public parks, etc. with the exception of Main Street and Nicholls Road street landscaped areas.

15.4 Landscaping, Water and the Master Association. All areas dedicated to the MHOA, Subassociation or indicated as Common Area and Facilities will be maintained by the MHOA; and all payments for the pressurized irrigation service, culinary water, sanitation and sewer services provided by the City will be the responsibility of and paid for directly by the MHOA.

15.5 Accessory Buildings. Since Accessory Buildings are considered “conditional uses,” each application to construct or install an Accessory Building will be evaluated separately by the ARC, subject to the following guidelines:

15.5.1 Any detached Accessory Building must conform in design and construction materials with the primary residential Dwelling;

15.5.2 The maximum height of an Accessory Building shall be 9 feet, (although the ARC may grant an exception if, in its sole opinion, such is in the best interest of the Neighborhood);

15.5.3 Tin sheds are not allowed; and

15.5.4 If there is a dispute of any kind whatsoever, such as whether a structure is an Accessory Building, the decision of the Declarant or upon the termination of the Period of Declarant’s Control the Board of Directors shall be final, conclusive and binding.

15.6 Easements. Easements and rights of way for the installation and maintenance of utilities, drainage systems and facilities, and irrigation are reserved, as set forth herein and in the legal descriptions of the Property.

15.6.1 Within these easements and rights of way, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in, on or about the easements and rights of way, or which may obstruct or retard the flow of water through the drainage channels in the easements and rights of way.

15.6.2 The easement and right of way area of each Lot and all improvements within said area shall be maintained continuously by their Owners, excepting those improvements for which a public authority or utility company is expressly responsible.

15.7 Slope and Drainage Control. No structure, plant, improvement or other material may be placed or permitted to remain, or other activities undertaken which may damage or interfere with established Lot ratios, create erosion or sliding problems, or which may change the direction or flow of drainage channels, or obstruct or retard the flow of water through the channels.

15.7.1 The slope control area of each Lot and all improvements therein shall be maintained continuously by the Owner of the Lot, excepting those improvements for which a public authority or utility company is expressly responsible.

15.7.2 It shall be the responsibility of the Owner to see that his Lot strictly conforms with the grading and drainage plan established by the Declarant, City and/or Davis County.

15.8 Procedures for Approval of Plans and Specifications. Architectural designs, plans and specifications showing the nature, kind, shape, color, size, materials, and location of all proposed structures and improvements shall be submitted to the ARC for review and approval (or disapproval). In addition, information concerning irrigation systems, drainage, lighting, landscaping and other features of proposed construction shall be submitted as applicable. In reviewing each submission, the ARC may consider the proposed design, harmony of external design with existing structures and the common scheme, the location in relation to surrounding structures, topography, finish grade and elevation, among other things. Decisions of the ARC may be based on purely aesthetic considerations. Each Owner acknowledges, by acceptance of a deed or other document of conveyance, that opinions on aesthetic matters are subjective and may vary as ARC members change over time.

15.9 Preliminary Architectural Drawings, Plans and Specifications. The ARC may require, as a minimum, the following:

15.9.1 Plot plan to scale of entire site with buildings located and elevation of floors shown above or below a designated point on the street.

15.9.2 Floor plans of each floor level to scale.

15.9.3 Elevations to scale of all sides of the Dwelling.

15.9.4 One major section through Dwelling.

15.9.5 A perspective (optional).

15.9.6 Specifications of all outside materials to be used on the exterior of the Dwelling.

15.10 Final Plans and Specifications and Working Drawings. The ARC may require, as a minimum, the following:

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15.10.1 Plot plans to scale showing the entire site, building, garages, walks, drives, fence, carriage lights, retaining walls, with elevations of the existing and finished grade and contours including those at the outside corners of the buildings and at adjacent property lines and street fronts, and elevations of floors from a designated point on the street.

15.10.2 Detailed floor plans.

15.10.3 Detailed elevations, indicating all materials and showing existing and finished grades.

15.10.4 Detailed sections, cross and longitudinal.

15.10.5 Details of cornices, porches, windows, doors, garages, garden walls, steps, patios, fences, carriage lights, and so forth.

15.10.6 Specifications shall give complete description of materials to be used with supplements, addenda or riders noting the colors of all materials to be used on the exterior of the Dwelling.

15.11 Minimum Requirements. Anything to the contrary notwithstanding, no Dwelling shall be considered "approved" or be constructed or altered unless it meets the following minimum requirements:

15.11.1 The Dwelling must strictly comply with the Design Guidelines adopted by the ARC and as they may be amended from time to time.

15.11.2 In the event of any conflict, inconsistency or incongruity between the Design Guidelines and any other provisions set forth herein, the former shall in all respects govern and control.

15.11.3 Only single family residential Dwellings are allowed.

15.11.4.4 The height of any Dwelling shall not exceed two stories above ground.

15.11.4.5 No slab on grade Dwellings are permitted.

15.11.4.6 Without the express, prior written consent of the ARC, a basement is required for each Dwelling.

15.11.4.7 Without the express, prior written consent of the ARC, each Dwelling shall have a private garage for not less than two motor vehicles and use the garage for this purpose.

15.11.4.8 The Dwelling exteriors, in their entirety, must consist of either maintenance free stucco and masonry, unless another construction material is approved by the ARC in writing. No aluminum or vinyl is permitted.

15.11.4.9 All fencing shall comply with the following minimum requirements:

15.11.4.9.1 Wrought iron, masonry, and select types of vinyl fencing are permitted in the side and rear yard areas;

15.11.4.9.2 Chain link and wood fencing are prohibited;

15.11.4.9.3 Any and all fencing materials not expressly approved in this Declaration or by the ARC in writing are prohibited.

15.11.4.9.4 Front yard fencing of any kind is prohibited (the only exceptions may be on corner lots and/or collector roads if approved in writing by the Board of Delegates);

15.11.4.9.5 If corner lots are fenced, the fencing will be installed so water utilities are accessible from the City right of way;

15.11.4.9.6 Fencing inside fencing is prohibited;

15.11.4.9.7 Fencing (including by way of illustration but not limitation all hedges, trees, bushes, shrubs or other animate or inanimate, natural or artificial objects) behind entry monuments or other monuments, planter boxes or special landscaping established by the Declarant is prohibited;

15.11.4.9.8 No fence, wall, hedge or similar structure may be built in any rear yard with a height in excess of six (6') feet.

15.11.4.9.8 NO FENCE, WALL, HEDGE OR SIMILAR STRUCTURE MAY BE BUILT IN ANY SIDE YARD WITHOUT THE PRIOR WRITTEN CONSENT OF THE ARC.

15.11.4.9.10 If there is a dispute regarding fencing of any kind, such as what constitutes the front, side or rear yards, the decision of the ARC shall be final, binding and conclusive.

15.12 No Waiver of Future Approvals. The approval of the ARC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such Board of Directors, 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.

15.13 Variance. The ARC may authorize variances from compliance with any of the architectural guidelines when circumstances such as topography, natural obstructions, hardship, aesthetic, or environmental considerations require, but only in accordance with its duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) estop the ARC 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.

15.14 Limitation of Liability. Neither the Declarant nor the ARC, or any of their employees, agents, 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. By accepting a deed or other document of conveyance to a Lot, each Owner agrees to and shall defend, indemnify, save and hold the Declarant and the ARC, and their employees, agents, representatives or consultants, harmless from any and all loss, damage or liability they may suffer, including defense costs and attorney fees, as a result of any claims, demands, actions, costs, expenses, awards or judgments arising out of their review or approval of architectural designs, plans and specifications.

15.15 Professional Architects and Designers. Designs submitted for approval must be prepared by architects or by qualified residential designers of outstanding ability whose previous work must be available for inspection and evaluation as a part of the approval process.

15.16 Ivory Homes Catalogue. Any and every home design, plan or specification contained within the then current Ivory Homes Catalogue shall be considered approved and qualify for construction, and no other consent shall be required.

15.17 Contractors. Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Declaration may be excluded by the ARC from the Subdivision, subject to the notice and the opportunity to be heard. In the event of sanctions after notice and hearing, neither the ARC or the Declarant, nor their employees, agents, representatives or consultants shall be held liable to any person for exercising the rights granted by this Section.

15.18 Enforcement of Architectural Guidelines. Any construction, installation, alteration, or other work done in violation of this Declaration shall be considered to be nonconforming.

15.18.1 Upon written request from the ARC an Owner shall at his own cost and expense remove such non-conforming construction, alteration, or other work and shall Orchard Homes Single Family Residences, a part of the Orchard Farms Planned Residential Unit Development

restore the land to substantially the same condition as existed prior to the non-conforming construction, alteration, or other work.

15.18.2 Should an Owner fail to remove and restore as required hereunder, the ARC 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, without being deemed to be a trespasser.

16. Leases. No Owner may lease individual rooms to separate Persons or less than his entire Dwelling, including by way of illustration but not limitation letting a room to domestic help or a caretaker, without the prior express written consent of the Board of Directors. "For Rent" or "For Lease" signs are prohibited. The Board of Directors must approve in writing all lease and rental agreements as to form. Each Owner agrees by the acceptance of a deed or other document of conveyance to a Lot, that any such lease or rental agreement not approved or in violation of the Project Documents shall be considered "non-conforming" and voidable by the Board of Directors. 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 his Lot or Dwelling.

17. Easement -- Support, Maintenance and Repair. There is hereby reserved and the Subassociation is hereby granted a non-exclusive easement over, across, through, above and under the Lots for the purposes of enforcing the Project Documents.

18. Liability of Owners and Residents For Damages. Each Owner or Permittee shall be liable to the MHOA, Subassociation, Club Board of Directors, or other Owners for damages to person or property in the Tract caused by his intentional misconduct, recklessness, carelessness or negligence.

19. Encroachments. If any portion of Common Area and Facilities or a Lot encroaches or comes to encroach upon other Common Area and Facilities or another Lot 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.

20. Board of Directors. The Subassociation shall be managed by a Board of Directors comprised of three (3) natural persons who shall be duly qualified and elected.

21. Status and General Authority of Board of Directors. Any instrument executed by the Board of Directors that recites facts which, if true, would establish the power and authority of the Board of Directors 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 Subassociation shall, in connection with its exercise of any of the powers delineated in subparagraphs below, constitute a legal entity capable of dealing in its own name or in the name of the Board of Directors. The Board of Directors shall have, and is hereby granted, the following authority and powers, subject to the Master Declaration.

21.1 Access. To enter into or upon any Lot to make repairs to and to do other work necessary for the proper maintenance and operation of any Common Area and Facilities during reasonable hours and after reasonable notice to the occupant of the Lot; and (2) for making emergency repairs necessary to prevent damage to the Common Area and Facilities or to another Lot, provided that a reasonable effort is made to provide notice to the occupant of the Lot prior to entry.

21.2 Grant Easements. With or 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 Area and Facilities for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance, operation or regulation of the Orchard Homes Single Family Residences Project.

21.3 Execute Documents. To execute and record, on behalf of all Owners, any amendment to the Declaration or Final Plat for the Orchard Farms Single Family Residences Neighborhood which has been approved by the vote or consent necessary to authorize such amendment.

21.4 Standing. To sue and be sued.

21.5 Enter Into Contracts. To enter into contracts which in any way concern the Orchard Homes Single Family Residences Project, so long as any vote or consent necessitated by the subject matter of the agreement has been obtained.

21.6 Transfer Interests in Real Property. To exchange, convey or transfer any interest in real property, so long as it has been approved by at least sixty seven percent (67%) of the Members of the Subassociation.

21.7 Purchase. To purchase, otherwise acquire, and accept title to, any interest in real property, so long as it has been approved by at least sixty seven percent (67%) of the Members of the Subassociation.

21.8 Add Property. To add any real property, or interest therein, obtained pursuant to subparagraph (g) above to the Orchard Homes Single Family Residences Project, so long as it has been approved by at least seventy five (75%) of the Members of the Subassociation.

21.9 Promulgate Rules. To promulgate such reasonable administrative guidelines, rules, regulations, policies and procedures as may be necessary or desirable to aid the Board of Directors in carrying out any of its functions or to insure that the Orchard Homes Single Family Residences Project is maintained and used in a manner consistent with this Declaration.

21.10 Meetings. 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 Owners, to retire to executive session, to regulate record keeping, and to allow, control or prohibit the electronic reproduction (video or audio) of meetings.

21.11 Delegation of Authority. To delegate its responsibilities over the management and control of the Orchard Homes Single Family Residences Project to a professional manager, reserving the right, power and authority, however, to control and oversee the administration thereof, including the right to appoint delegates to the MHOA.

21.12 Interpret and Enforce Orchard Homes Single Family Residences Project Documents. To interpret and enforce this Declaration, the Bylaws and Rules and Regulations.

21.13 Borrow. To borrow funds and pledge assets of the Subassociation, so long as the transaction has been approved in advance by at least seventy five (75%) of the Members of the Subassociation.

21.14 All other Acts. To perform any and all other acts, and to enter into any other transactions which may be reasonably necessary for the Board of Directors to perform its functions on behalf of the Owners.

The Board of Directors may delegate its authority, right and power, in whole or in part, to a managing Director ("Managing Member").

In the event of any conflict, incongruity or inconsistency between the grant of authority of this Section and the Master Declaration, the latter shall in all respects govern and control.

22. Delegation of Management Responsibilities. The Property shall be managed by a professional manager, selected by the Declarant or, upon the termination of the Period of Declarant's Control, the MHOA, who must also manage the MHOA. The termination provision of any such contract must not require a termination penalty or early termination charge, or any advance notice of any more than sixty (60) days, and no such contract or agreement shall be for a term greater than one (1) year.

23. Annual Meeting of the Subassociation. The Subassociation shall meet on a periodic basis at least annually at a time and place set by the Board of Directors.

24. Lists of Owners, Eligible Mortgagees, and Eligible Insurers or Guarantors. The Board of Directors 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 and Membership which is owned by him; (b) the name and address of each resident; (c) 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 (d) 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 Orchard Homes Single Family Residences, a part of the Orchard Farms Planned Residential Unit Development

transfer of a fee or undivided fee interest in a Lot, either the transferor or transferee shall furnish the Board of Directors with written evidence verifying that the transfer has occurred, that the Deed or other instrument accomplishing the transfer is of record in the Office of the County Recorder, and that the transferee has received a copy of the Declaration and Bylaws then in force. The Board of Directors may for all purposes act and rely on the information concerning ownership in its records or, at its option, the official 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 Board of Directors is otherwise advised in writing.

25. Capital Improvements. All Common Expenses for Capital Improvements or Additions to the Neighborhood shall be governed by and subject to the following conditions, limitations and restrictions:

25.1 Board of Directors Discretionary Expenditure Limit. Any Capital Improvement or Addition to the Neighborhood which costs ten percent (10%) or less of the Total Annual Budget for the Neighborhood, and does not alter the nature of the Neighborhood or the Tract, may be authorized unilaterally by the Board of Directors (the "Capital Improvement Expenditure Ceiling").

25.2 Expenditure Requiring Consent of Owners. Any Capital Improvement or Addition, the cost of which will exceed the Capital Improvement Expenditure Ceiling, must, prior to the commencement of construction, be authorized in writing by at least a majority of the Owners in the Neighborhood.

25.3 Improvements Changing the Nature of the Orchard Homes Single Family Residences Project. Any Capital Improvement which would materially alter the nature of the Orchard Homes Single Family Residences Project or Tract must, regardless of its cost and prior to being constructed or accomplished, be authorized by at least sixty-seven (67%) percent of the Owners.

26. View Impairment. Neither the Declarant nor the Subassociation guarantees or represents that any view over and across any property, including any Lot or Building will be preserved without impairment. Neither the Declarant nor the Subassociation shall have the obligation to prune or thin trees or other landscaping except as set forth herein. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

27. The Area of Common Responsibility. The Common Area and Facilities, including snow and ice removal, shall be the maintenance responsibility of the MHOA or its designee. The Subassociation is responsible to pay its share of the Master Operating Expenses. The Subassociation is not directly responsible for the maintenance, repair or replacement of the Common Area and Facilities in the Orchard Homes Single Family Residences Project. The Subassociation is responsible for the maintenance of the Exclusive Common Area, including the snow and ice removal.

28. The Maintenance Responsibility of the Owners. Each Owner is responsible for the maintenance in a state of good condition and repair, including snow and ice removal, of his or her Lot and any property he or she privately owns.

29. Garbage Removal. Garbage will be removed by the City.

29.1 Owners shall place their garbage in suitable plastic bags, sacks or containers and deposit them immediately into the designated garbage containers.

29.2 Garbage containers shall be stored so as not to be visible from the street except on garbage pick-up day each week and then for a period of no longer than 24 hours.

30. Standard of Care - Generally. The Property shall be maintained in a usable, clean, functional, safe, healthy, sanitary, attractive, and good condition, consistent with Community-wide Standards. If a dispute arises between a Owner or resident and the MHOA or Subassociation as to the condition of a Lot, the decision of the Board of Delegates or Board of Directors shall be final, binding and conclusive.

31. Changes to Areas of Personal or Common Responsibility. The Board of Delegates may unilaterally 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 Owners.

32. Declarant's Rights to Change Design and Construction. The Declarant may unilaterally make changes to the design and construction of the improvements located in or on the Property without the consent of the Board of Directors or Owners.

33. Structural Alterations by Owner. 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 non-Lot areas of the Orchard Homes Single Family Residences Project, if any, without the prior written consent of the Board of Directors.

34. Common Expenses. Each Owner by virtue of his acceptance of a Deed or other document of conveyance to a Lot covenants to and shall pay his share of the Common Expenses, and Assessments, including Additional Charges, and Individual Charges to the MHOA in accordance with the Master Declaration

34.1 Declarant. Anything to the contrary notwithstanding, the Declarant shall not be obligated to pay Assessments on any Lots owned by it until such time as: (1) the physical structures are substantially completed; (2) certificates of permanent occupancy are issued and the Lots are sold or rented; or (3) Declarant elects in writing to pay the Assessments, whichever first occurs.

34.2 Purpose of Common Area 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 Orchard Homes Single Family Residences, a part of the Orchard Farms Planned Residential Unit Development

the maintenance of any real and personal property owned by the Subassociation, and regulating the Community, all as may be more specifically authorized from time to time by the Board of Directors.

34.3 Creation of Assessments. Since the Assessments shall pay for the common expenses of the Subassociation, as shall be determined by the Board of Directors from time to time, each Owner, by acceptance of a deed to a Lot, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Subassociation in a timely manner all Assessments assessed by the Board of Directors.

34.4 Budget. At least thirty (30) days prior to the annual meeting of the Subassociation, the Board of Directors shall prepare and deliver to the Owners a proposed Budget which:

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

34.4.2 Basis. Shall be based upon advance estimates of cash requirements by the Board of Directors to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Areas and regulation of the Subassociation, which estimate shall include but is not limited to expenses of management, irrigation water, grounds maintenance, taxes and special assessments, premiums for all insurance which the Board of Directors is required or permitted to maintain, common lighting and heating, water charges, trash collection, sewer service charges, carpeting, painting, repairs and maintenance of the Exclusive Common Areas and replacement of those elements of the Common Areas that must be replaced on a periodic basis, wages for Board of Directors employees, legal and accounting fees, any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus or sinking fund, capital improvement reserve, and other expenses and liabilities which may be incurred by the Subassociation for the benefit of the Owners under and by reason of this Declaration. Until the Project is completed, and all Phases are added, this estimate may need to be adjusted periodically as each new Phase is completed.

34.5 Apportionment. The common profits, losses and voting rights of the Project shall be distributed among and the common expenses shall be charged equally to the Lot Owners.

34.6 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 percentage of ownership interest in the Common Areas. Notwithstanding the foregoing, however, if the membership disapproves the proposed budget and Assessments or the Board of Directors 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.

34.7 Additional Services. The Board of Directors may but is not obligated to add to the Assessment of any particular Lot or Lot Owner additional charges for individual services offered or provided, not a Common Expense.

34.8 Personal Obligation of Owner. Owners are liable to pay all Assessments assessed and Additional Charges; provided, however, no first mortgagee or beneficiary under a first deed of trust (but not the Seller under 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: (a) the Owner of both the legal and equitable interest in any Lot; (b) the owner of record in the offices of the County Recorder of Salt Lake County, Utah; and (c) both the Buyer and Seller under any executory sales contract or other similar instrument.

34.9 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 Board of Directors 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.

34.10 Dates and Manner of Payments. The dates and manner of payment shall be determined by the Board of Directors.

34.11 Reserve Account. The Board of Directors shall establish and maintain a reserve account or accounts to pay for unexpected operating expenses and capital improvements.

34.12 Analysis Report. The Board of Directors shall prepare and update at least annually a written Capital Asset Replacement and Reserve Account Analysis, and make the report available to the Owners at the annual meeting of the Subassociation.

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

34.14 Statement of Assessments Due. Upon written request, the Board of Directors 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 is received by the Secretary, shall be deemed conclusive evidence that all Assessments are paid current. The Subassociation may require the advance payment of a processing charge not to exceed \$15.00 for the issuance of such certificate.

34.15 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 which insofar as it adversely affects the Subassociation's lien for unpaid Assessments each Owner by accepting a deed or other document of conveyance to a Lot hereby waives.

34.16 Suspension of Right to Use Amenities for Non-Payment. At the discretion of the Board of Directors, the right to use any amenities in the Project may be suspended 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.

34.17 Suspension of Right to Vote for Non-Payment. At the discretion of the Board of Directors, the right of an Owner to vote on issues concerning the Subassociation 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.

34.18 Suspension of Right to Receive Utility Services. At the discretion of the Board of Directors, the right of an Owner or Lot to receive utility services paid as a common expense may be suspended.

34.19 Duty to Pay Assessments in Event of Foreclosure. Anything to the contrary notwithstanding, any first mortgagee who obtains title to a Lot pursuant to the remedies in the mortgage or trust deed or through foreclosure will not be liable for more than six (6) months of the unpaid regularly budgeted assessments, dues or charges accrued before acquisition of the title to the property by the mortgage, although the first mortgagee will also be liable for any reasonable attorneys fees and/or costs related to the collection of the unpaid dues. All other grantees who obtain title to a Lot in a voluntary conveyance or pursuant to the remedies in a mortgage or trust deed or through foreclosure shall be jointly and severally liable with the trustor or mortgagor for all unpaid assessments, late fees, default interest and collection costs, including a reasonable attorneys fee, against the Lot, and for its share of the Neighborhood Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the trustor or mortgagor the amounts paid by the grantee.

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

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

35.2 Subassociation 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 Subassociation. The Board of Directors in its discretion may allow any special assessment to be paid in installments.

36. Benefit Assessments. If an Owner has the choice to accept or reject the benefit, then the Board of Directors shall have the power and authority to assess an Owner in a particular area as follows:

36.1 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.

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

37. Collection of Assessments. The Owners must pay their Assessments in a timely manner. Payments are due in advance on the first of the month. Payments are late if received after the 10th day of the month in which they were due.

37.1 Delinquent Assessments. Any Assessment not paid when due shall be deemed delinquent and a lien securing the obligation shall automatically attach to the Lot, regardless of whether a written notice is recorded.

37.2 Late Fees and Default Interest. The Board of Directors may charge a late fee on late payments and default interest on the outstanding principal balance of a delinquent account.

37.3 Lien. If any Lot Owner fails or refuses to make any payment of any Assessment or his portion of the Common Expenses when due, that amount shall constitute a lien on the interest of the Owner in the Property, and upon the recording of notice of lien by the Manager, Board of Directors or their designee 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 Lot in favor of any assessing Lot 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.

37.4 Foreclosure of Lien and/or Collection Action. If the Assessments remain unpaid, the Subassociation may, as determined by the Board of Directors, institute suit to collect the amounts due and/or to foreclose the lien.

37.5 Personal Obligation. Each Owner, by acceptance of a deed or as a party to any other type of conveyance, vests in the Subassociation 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.

37.6 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.

37.7 Duty to Pay Independent. No reduction or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Subassociation or Board of Directors to take some action or perform some function required to be taken or performed by the Subassociation or Board of Directors 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 Subassociation, 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.

37.8 Application of Payments. All payments shall be applied as follows: Additional Charges, Delinquent Assessments and Current Assessments.

37.9 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 Board of Directors. The sale or foreclosure shall be conducted in the same manner as foreclosures in deeds of trust or mortgages or in any other manner permitted by law. In any foreclosure or sale, the Owner shall pay the costs and expenses of such proceedings, including but not limited to the cost of a foreclosure report, reasonable attorney's fees, and a reasonable rental for the Lot during the pendency of the foreclosure action. The Subassociation 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 Board of Directors may bid for the Lot at foreclosure or other sale and hold, lease, mortgage, or convey the same.

37.10 Appointment of Trustee. If the Board of Directors 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 Subassociation, provided s/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.

37.11 Appointment of Attorney in Fact to Collect Rents. Each Owner by virtue of his acceptance of a deed or other document of conveyance to a Lot hereby irrevocably appoints the Subassociation as his attorney in fact to collect rent from any person renting his Lot, if the Lot is rented and Owner is more than thirty (30) days delinquent in his Assessments. Rent Orchard Homes Single Family Residences, a part of the Orchard Farms Planned Residential Unit Development

due shall be paid directly to the Subassociation, 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 Subassociation.

37.12 Lenders, Foreclosures and Unpaid Assessments. Anything to the contrary notwithstanding, any first mortgagee who obtains title to a Lot pursuant to the remedies in the mortgage or trust deed or through foreclosure will not be liable for more than six (6) months of the unpaid regularly budgeted assessments, dues or charges accrued before acquisition of the title to the property by the mortgage, although the first mortgagee will also be liable for any reasonable attorneys fees or costs related to the collection of the unpaid dues. All other grantees who obtain title to a Lot in a voluntary conveyance or pursuant to the remedies in a mortgage or trust deed or through foreclosure shall be jointly and severally liable with the trustor or mortgagor for all unpaid assessments, late fees, default interest and collection costs, including a reasonable attorneys fee, against the Lot for its share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the trustor or mortgagor the amounts paid by the grantee.

38. Liability of Board of Directors. The Subassociation shall indemnify every officer and member of the Board of Directors against any and all expenses, including but not limited to attorneys fees reasonably incurred by or imposed upon any officer or member of the Board of Directors in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he may be a party by reason of being or having been an officer or member of the Board of Directors. The officers and members of the Board of Directors 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 Board of Directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Subassociation (except to the extent that such officers or members of the Board of Directors may also be Owners), and the Subassociation shall indemnify and forever hold each such officer and member of the Board of Directors 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 Board of Directors, or former officer or member of the Board of Directors, may be entitled. The Subassociation shall, as a common expense, maintain adequate general liability and officer's and director's insurance coverage to fund this obligation, if such insurance is reasonably available.

39. Insurance. The MHOA may elect to purchase insurance coverage for the Subassociation but if not the Subassociation shall obtain insurance against loss or damage by fire and other hazards for: (a) all Common Area and/or Exclusive Common Area located within the Neighborhood; and (b) all Buildings within the Neighborhood that contain more than one Unit, including any improvement which is a permanent part of a Building, and, if so, the Manager, Board of Directors or Subassociation shall satisfy the minimum requirements set forth below. The insurance coverage shall be written on the property in the name of the Manager, Board of Directors or Subassociation, as trustee for each of the Lot Owners in the percentages established in this Declaration. The insurance premiums shall be a Common Expense. This Section is Orchard Homes Single Family Residences, a part of the Orchard Farms Planned Residential Unit Development

without prejudice to the right and obligation of each Owner or Permittee to insure his own Lot or Dwelling for his benefit.

39.1 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 "subdivision" casualty policy. This additional coverage may be added by the Board of Directors as it deems necessary in its best judgment and in its sole discretion.

39.2 Flood Insurance. If any part of the Orchard Homes Single Family Residences Project's improvements are in a Special Flood Hazard Area -- which is designated as A, AE, AH, AO, A1-30, A-99, V, VE, or VI-30 on a Flood Insurance Rate Map (FIRM) -- the Subassociation shall obtain a "master" or "blanket" policy of flood insurance and provide for the premiums to be paid as a common expense. The policy should cover any common element buildings and any other common property. The Owner may also be required to purchase an individual policy. The amount of flood insurance should be at least equal to the lesser of 100% of the insurable value of the facilities or the maximum coverage available under the appropriate National Flood Insurance Administration program.

39.3 Liability Insurance. A public liability policy covering the Exclusive Common Area, the Subassociation and its Members for all damage or injury caused by the negligence of the Subassociation or any of its Members or agents in an adequate amount determined by the Board of Directors. The policy should be written on the comprehensive form and shall include non-owned and hired automobile liability protection.

39.4 Directors and Officers Insurance. A director's and officer's liability or errors and omissions policy, if reasonably available, with at least One Million (\$1,000,000) Dollars in coverage. The Subassociation shall also obtain D & O insurance coverage for its Delegate serving on the Board of Delegates for the MHOA.

39.5 Fidelity Bond. A separate fidelity bond in a reasonable amount to be determined by the Board of Directors to cover all non-compensated officers as well as all employees for theft of Subassociation funds.

39.6 Deductible. The deductible on a claim made against the Subassociation's Property Insurance Policy shall be paid for by the party who would be liable for the loss, damage, claim or repair in the absence of insurance, and in the event of multiple responsible parties, the loss shall be allocated in relation to the amount each party's responsibility bears to the total. Provided, however, if the loss is caused by an act of god or nature, or by an element beyond the control of the Subassociation, then the Subassociation shall be responsible for and pay the deductible.

39.7 Adjust Claims. The Board of Directors shall have the right, power and authority to unilaterally adjust claims and is hereby granted the right to refuse to submit the Orchard Homes Single Family Residences, a part of the Orchard Farms Planned Residential Unit Development

claim of a Owner or Resident if: (a) the submittal threatens to cancel the Subassociation's insurance coverage or to substantially increase its premiums and (b) the claim occurred in the Lot of the claimant or (d) the claim was caused by an item under claimant's control, his intentional misconduct, carelessness or negligence or his failure to perform a maintenance duty required hereby, and (e) it is probable that the claim is covered by the claimant's insurance. In addition, the Board of Directors may require that the claim be submitted first to the insurance carrier of the claimant and it be formally and unconditionally rejected or denied by his insurer in writing.

40. Destruction, Condemnation, and Obsolescence. The following provisions shall apply with respect to the destruction, condemnation, or obsolescence of the Orchard Homes Single Family Residences Project.

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

40.1.1 "Substantial Destruction" shall exist whenever, as a result of any damage or destruction to the Orchard Homes Single Family Residences 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 Orchard Homes Single Family Residences Project.

40.1.2 "Partial Destruction" shall mean any other damage or destruction to the Orchard Homes Single Family Residences Project or any part thereof.

40.1.3 "Substantial Condemnation" shall exist whenever a complete taking of the Orchard Homes Single Family Residences Project or a taking of part of the Orchard Homes Single Family Residences 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 Orchard Homes Single Family Residences Project.

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

40.1.5 "Substantial Obsolescence" shall exist whenever the Orchard Homes Single Family Residences 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 Orchard Homes Single Family Residences Project.

40.1.6 "Partial Obsolescence" shall mean any state of obsolescence or disrepair which does not constitute Substantial Obsolescence.

40.1.7 "Restored Value" shall mean the fair market value of the Orchard Homes Single Family Residences Project after Restoration as determined by an MAI or other qualified appraisal.

40.1.8 "Estimated Cost of Restoration" shall mean the estimated costs of restoring the Orchard Homes Single Family Residences Project to its former condition.

40.1.9 "Available Funds" shall mean any proceeds of insurance, condemnation awards, payments in lieu of condemnation, and any uncommitted funds of the Board of Directors or Subassociation. Available Funds shall not include that portion of insurance proceeds legally required to be paid to any party other than the Subassociation, 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.

40.2 Determination by Board of Directors. Upon the occurrence of any damage or destruction to the Orchard Homes Single Family Residences Project or any part thereof, or upon a complete or partial taking of the Orchard Homes Single Family Residences Project under eminent domain or by grant or conveyance in lieu thereof, the Board of Directors 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 Orchard Homes Single Family Residences Project. In addition, the Board of Directors shall, from time to time, review the condition of the Orchard Homes Single Family Residences Project to determine whether Substantial Obsolescence exists. In making such determinations the Board of Directors may retain and rely upon one or more qualified appraisers or other professionals.

40.3 Restoration of the Orchard Homes Single Family Residences Project. Restoration of the Orchard Homes Single Family Residences Project shall be undertaken by the Board of Directors 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 Orchard Homes Single Family Residences 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 Area and Facilities which is then subject to Mortgages held by Eligible Mortgagees.

40.4 Notices of Destruction or Obsolescence. Within thirty (30) days after the Board of Directors 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.

40.5 Excess Insurance. In the event insurance proceeds, condemnation awards, or payments in lieu of condemnation actually received by the Board of Directors or Subassociation exceed the cost of Restoration when Restoration is undertaken, the excess shall be paid and distributed to the Owners in proportion to their respective undivided interests in the Common Area and Facilities. Payment to any Owner whose Lot is the subject of a Mortgage shall be made jointly to such Owner and the interested Mortgagee.

40.6 Inadequate Insurance. If the cost of Restoration exceeds Available Funds, the Board of Directors may elect to make a special assessment in accordance with Article III, Section 21 above to pay for the deficiency.

40.7 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 Orchard Homes Single Family Residences Project will continue as a planned residential development) or is taken in a condemnation proceeding or pursuant to any agreement in lieu thereof, the undivided Ownership interest in the Common Area and Facilities shall be immediately reallocated to the remaining Lots.

40.8 Sale of Orchard Homes Single Family Residences Project. Unless Restoration is accomplished as set forth above, the Orchard Homes Single Family Residences 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 Final Plat for the Orchard Farms Single Family Residences Neighborhood shall terminate and the proceeds of sale and any Available Funds shall be distributed by the Board of Directors to the Owners in proportion to their respective undivided interests in the Common Area and Facilities. Payment to any Owner whose Lot is then the subject of a Mortgage shall be made jointly to such Owner and the interested Mortgagee.

40.9 Authority of Board of Directors to Represent Owners in Condemnation or to Restore or Sell. The Board of Directors, as attorney-in-fact for each Owner, shall represent all of the Owners and the Subassociation 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 Area and Facilities.

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

40.11 Restoration Power. The Board of Directors, as attorney-in-fact for each Owner, shall have and is hereby granted full power and authority to restore or to sell the Orchard Homes Single Family Residences Project and each Lot therein whenever Restoration or sale, as the case may be, is undertaken as hereinabove provided.

40.12 Right of Entry. 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.

40.13 Termination of Legal Status. Any action to terminate the legal status of the Property after Substantial Destruction or Condemnation occurs shall be agreed to by Owners who represent at least sixty-seven (67%) percent of the total allocated votes in the Subassociation, by Eligible Mortgage holders who represent at least fifty-one (51%) percent of the votes of the Lots that are subject to mortgages held by eligible holders, sixty-seven (67%) of all of the Lot and Lot Owners in the Tract, and the Declarant until the expiration of the Period of Declarant's Control.

The termination of the legal status of the Orchard Homes Single Family Residences Project for reasons other than Substantial Destruction or Condemnation of the property shall be agreed to by Eligible Mortgage holders that represent at least sixty-seven (67%) percent of the votes of the mortgaged Lots. However, implied approval may be assumed when an Eligible Mortgage holder fails to submit a response to any written proposal for an amendment within thirty (30) days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested.

41. 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 transaction from Lots which collectively hold the required percentages, subject to the following conditions:

41.1 Sixty-Day Limit. All necessary consents must be obtained prior to the expiration of sixty (60) days from the time the first written consent is obtained; and

41.2 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.

42. Mortgagee Protection. The lien or claim against a Lot for unpaid Assessments levied pursuant to the Master Declaration or 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:

42.1 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 there under 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.

42.2 Books and Records Available for Inspection. The Board of Directors or the Subassociation shall make available to the Owners, to Mortgagees, and lenders, and to holders, insurers, or guarantors of any Mortgage current copies of the Declaration, Bylaws, and administrative rules and regulations concerning the Orchard Homes Single Family Residences Project, as well as the books, records, and financial statements of the Board of Directors and the Subassociation. 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 Subassociation shall have the right to recover its photocopying and service charges incurred in making the inspection and photocopying available.

42.3 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.

42.4 Management Contracts. Any agreement for professional management of the Orchard Homes Single Family Residences Project, and any contract for goods or services, or any lease which is entered into by the Board of Directors shall provide, or be deemed to provide hereby, that:

42.4.1 Either party may terminate the contract with cause upon at least thirty (30) days prior written notice to the other party;

42.4.2 No contract may be for an initial term greater than one (1) year; and

42.4.3 The Neighborhood shall use the same property manager or property management company as the MHOA and other Neighborhoods in the Project.

42.5 Eligible Mortgagee Designation. Upon written request to the MHOA or the Subassociation, Board of Delegates or Board of Directors 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 Subassociation, and shall be entitled to timely written notice of any of the following:

42.5.1 Condemnation Loss or Award. Any condemnation loss or any casualty loss which affects a material portion of the Orchard Homes Single Family Residences Project or any Lot on which there is a Mortgage held, insured, or guaranteed by such Eligible Insurer or Guarantor.

42.5.2 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.

42.5.3 Lapse of Insurance. Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Board of Directors or the Subassociation.

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

43. Amendment.

43.1 General. Except as provided elsewhere in this Declaration, including by way of illustration but not limitation to sections pertaining to the annexation or withdrawal of land, any amendment to this Declaration shall require the affirmative written vote or consent of at least sixty-seven percent (67%) of the Total Votes of the Subassociation cast either in person or by proxy at a meeting duly called for such purpose or otherwise approved in writing by such Owners without a meeting. Any Amendment authorized pursuant to this Section shall be accomplished through the recordation in the Office of the County Recorder of an instrument executed by the Subassociation. In such instrument an officer or delegate of the Subassociation shall certify that the vote required by this Section for Amendment has occurred.

43.2 Initial Declarant Right to Amend. The Declarant alone may amend or terminate this Declaration prior to the closing of a sale of the first Lot.

43.3 Unilateral Right to Amend Under Certain Conditions. Notwithstanding anything contained in this Declaration to the contrary, this Declaration may be amended unilaterally at any time and from time to time by Declarant if such Amendment is (i) necessary to correct typographical errors or inadvertent omissions; (ii) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; or (iii) reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots or Memberships subject to this Declaration; provided, however, any such Amendment shall not materially adversely affect the title to any Lot unless any such Owner shall consent thereto in writing.

43.4 Declarant's Right to Amend Unilaterally Prior to Termination of Declarant's Right to Control. Prior to the expiration of the Period of Declarant's Control, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such Amendment shall not materially adversely affect the substantive rights of any Owner or Member hereunder, nor shall it adversely affect title to any property without the consent of the affected Owner or Member.

43.5 To Satisfy Requirements of Lenders. Anything to the contrary notwithstanding, Declarant reserves the unilateral right to amend all or any part of this Declaration to such extent and with such language as may be requested by a State Department of Real Estate (or similar agency), FHA, VA, the FHLMC or FNMA and to further amend to the Orchard Homes Single Family Residences, a part of the Orchard Farms Planned Residential Unit Development

extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of this Declaration or approval of the sale of Lots or Memberships, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Lot, or any portions thereof. Any such amendment shall be effected by the recordation by Declarant of an Amendment duly signed by the Declarant, specifying the federal, state or local governmental agency or the federally chartered lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. Recordation of such an Amendment shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such Amendment, when recorded, shall be binding upon all Lots and Memberships and all persons having an interest therein. It is the desire of Declarant to retain control of the Subassociation and its activities during the anticipated period of planning and development. If any amendment requested pursuant to the provisions of hereof deletes, diminishes or alters such control in any manner whatsoever in the opinion of Declarant, Declarant shall have the unilateral right to amend this Declaration to restore such control.

43.6 Declarant's Rights. No provision of this Master Declaration reserving or granting to Declarant the Developmental Rights shall be amended without the prior express written consent of Declarant, which consent may be withheld, conditioned or delayed for any reason or for no reason at Declarant's sole and exclusive discretion.

43.7 Consent of Eligible Mortgagee. The consent of Eligible Mortgagees holding at least sixty seven percent (67%) of the undivided ownership interest of the Owners in the Orchard Homes Single Family Residences Project in the Common Area and Facilities and shall be required to any amendment which would terminate the legal status of the Orchard Homes Single Family Residences Project; and the consent of Eligible Mortgagees holding at least fifty-one (51%) percent of the undivided ownership interest of the Owners in the Orchard Homes Single Family Residences Project in the Exclusive Common Area shall be required to add to or amend any material provision of this Declaration or the Final Plat for the Orchard Farms Single Family Residences Neighborhood which establishes, provides for, governs, or regulates any of the following, which are considered as "material":

43.7.1 voting rights;

43.7.2 increases in assessments that raise the previously assessed amount by more than twenty-five (25%) percent, assessment liens, or the priority of assessments liens;

43.7.3 reduction in reserves for maintenance, repair, and replacement of the Common Area and Facilities;

43.7.4 responsibility for maintenance and repairs;

43.7.5 reallocation of interests in the Common Area and Facilities, or rights to their use;

43.7.6 redefinition of any Lot boundaries;

43.7.7 convertibility of Lots into Common Area and Facilities or vice versa;

43.7.8 expansion or contraction of the Orchard Homes Single Family Residences Project, or the addition, annexation, or withdrawal of property to or from the Orchard Homes Single Family Residences Project;

43.7.9 hazard or fidelity insurance requirements;

43.7.10 imposition of any restrictions on the leasing of Lots;

43.7.11 imposition of any restrictions on a Owner's right to sell or transfer his Lot;

43.7.12 a decision by the Subassociation to establish self-management if professional management had been required previously by the Project Documents or by an Eligible Mortgage holder;

43.7.13 restoration or repair of the Orchard Homes Single Family Residences Project (after damage or partial condemnation) in a manner other than that specified in the documents;

43.7.14 any provisions that expressly benefit mortgage holders, insurers or guarantors; and

43.7.15 any provisions required by Utah State Department of Real Estate (or similar agency), FHA, VA, the FHLMC or FNMA, any other federal, state or local governmental agency or a federally chartered lending institution, which in all respects shall govern and control.

43.8 Material Amendment. Any addition or amendment shall not be considered material for purposes of this Section if it is for the clarification only or to correct a clerical error.

43.9 Notice to Eligible Mortgagee. 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 Final Plat for the Orchard Farms Single Family Residences Neighborhood is required shall be mailed postage prepaid to the address for such Mortgagee shown on the list maintained by the Subassociation. Any Eligible Mortgagee who does not deliver to the Board of Directors or the Subassociation 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 Final Plat for the Orchard Farms Single Family Residences Neighborhood or the termination of the legal status of the Project as a planned residential development if such Orchard Homes Single Family Residences, a part of the Orchard Farms Planned Residential Unit Development

amendments or such termination are made or accomplished in accordance with the provisions of this Declaration regarding Condemnation or Substantial Obsolescence.

44. Declarant's Sales Program. Anything to the contrary notwithstanding, 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, except as herein otherwise provided, as to each Lot owned by Declarant in accordance with the Declaration. Until the Declarant has sold all of its Property in the Tract, neither the Owners, the Subassociation nor the Board of Directors 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:

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

44.2 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.

44.3 Use of Common Area and Facilities. Declarant shall have the right to use the Common Area and Facilities located in the Orchard Homes Single Family Residences Project.

44.4 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, but in connection with each such location or relocation shall observe the limitations imposed by the preceding portion of this Section. Until one hundred twenty (120) days after the date of closing of Declarant's last Lot in the Orchard Homes Single Family Residences Project, Declarant shall have the right to remove from the Orchard Homes Single Family Residences 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.

45. Limitation on Improvements by Subassociation. Until one hundred twenty (120) days after the date of the closing of the sale of Declarant's last Lot or Unit in the Tract, neither the Subassociation nor the Board of Directors shall, without the written consent of Declarant, make any improvement to or alteration in any of the Common Area and Facilities created or constructed by Declarant, other than such repairs, replacements, or similar matters as may be necessary to properly maintain the Common Area and Facilities as originally created or constructed by Declarant.

46. 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 Orchard Homes Single Family Residences 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, protections and controls which are accorded to Declarant (in its capacity as Declarant) herein.

47. Expansion of the Orchard Homes Single Family Residences Project.

47.1 Reservation of Option to Expand. Declarant hereby reserves to itself the option to expand the Orchard Homes Single Family Residences Project to annex additional land and to include additional Lots in the Orchard Homes Single Family Residences Project (the Additional Land"). This option to expand may be exercised from time to time, at different times and in any order, without limitation. Such right may be exercised without first obtaining the consent or vote of Owners and shall be limited only as herein specifically provided. Such Lots shall be created on any or all portions of the Additional Property. The improvements on the property will be substantially completed before it is added.

47.2 Supplemental Declarations and Supplemental Maps. Such expansion may be accomplished by the filing for record by Declarant in the Office of the County Recorder, a Supplement or Supplements to this Declaration containing a legal description of the site or sites for new Lots, together with supplemental Map or Maps containing the same information with respect to the new Lots as was required on the Map with respect to the Phase I Lots. The expansion may be accomplished in phases by successive supplements or in one supplemental expansion.

47.3 Expansion of Definitions. In the event of such expansion the definitions used in this Declaration automatically shall be expanded to encompass and refer to the Orchard Homes Single Family Residences Project as so expanded. The term "Property" shall mean the real property initially submitted under the Declaration, plus any Additional Land added to the Orchard Homes Single Family Residences Project by a Supplemental Declaration or by Supplemental Declarations, and reference to this Declaration shall mean this Declaration as so supplemented. All conveyances of Lots after such expansion shall be effective to transfer rights in the Orchard Homes Single Family Residences Project, with additional references to the Supplemental Declaration and the Supplemental Map. The recordation in the Office of the County Recorder of a Supplemental Map incident to any expansion shall operate automatically to grant, transfer, and convey to then Owners of Lots in the Orchard Homes Single Family Residences Project as it existed before such expansion the respective undivided interests in the new Common Area and Facilities added to the Orchard Homes Single Family Residences Project as a result of such expansion. Such recordation shall also operate to vest in any then mortgagee of any Lot in the Orchard Homes Single Family Residences Project as it existed, interest so acquired by the Owner of the Lot encumbering any new Common Area and Facilities added to the Orchard Homes Single Family Residences Project as a result of such expansion.

Orchard Homes Single Family Residences, a part of the Orchard Farms Planned Residential Unit Development

47.4 Declaration Operative on New Lots. The new Lots shall be subject to all the terms and conditions of this Declaration and of a Supplemental Declaration, and the Lots therein shall be subject to the incidents of common ownership with all the provisions and protective covenants pertaining to a planned residential development as specified herein, upon recording the Supplemental Map and Supplemental Declaration in the said Office of the County Recorder.

47.5 Right of Declarant to Adjust Ownership Interest in Common Area and Facilities. Each deed of a Lot shall be deemed to irrevocably reserve to the Declarant the power to appoint to Owners, from time to time, the percentages in the Common Area and Facilities set forth in Supplemental Declaration. The proportionate interest of each Owner in the Common Area and Facilities after any expansion of the Orchard Homes Single Family Residences Project shall be an undivided interest of the Orchard Homes Single Family Residences Project as expanded. A power coupled with an interest is hereby granted to the Declarant, its successors and assigns, as attorney in fact to shift percentages of the Common Area and Facilities in accordance with Supplemental Declarations recorded pursuant hereto and each deed of a Lot in the Orchard Homes Single Family Residences Project shall be deemed a grant of such power to the Declarant. Various provisions of this Declaration and deeds and mortgages of the Lots may contain clauses designed to accomplish a shifting of the Common Area and Facilities. None of said provisions shall invalidate the other, but each shall be deemed supplementary to the other toward the end that a valid shifting of the Common Area and Facilities can be accomplished.

Accordingly, upon the recordation of a Supplemental Declaration and Supplemental Map incident to any expansion, the revised schedule of undivided interests in the Common Area and Facilities contained therein shall automatically become effective for all purposes and shall fully supersede any similar schedule which was contained in any declaration associated with any prior phase. In the event the provisions of the separate instruments relating to the Orchard Homes Single Family Residences Project conflict irreconcilably, the terms of that instrument which was recorded most recently shall control.

47.6 Other Provisions Concerning Expansion. If the Orchard Homes Single Family Residences Project is expanded as hereinbefore contained, then it is further provided that:

47.6.1 All or any part of the Additional Land may be added to the Orchard Homes Single Family Residences Project without any limitations whatsoever save and except that all additional Lots created must be restricted to multi family residential housing limited to one family per Dwelling Unit.

47.6.2 Portions of the Additional Land may be added to the Orchard Homes Single Family Residences Project at different times without any limitations.

47.6.3 Declarant shall have the right without further conveyance or documentation to build roads and access ways to the Additional Property through the easement areas as shown on the Final Plat for the Orchard Farms Single Family Residences Neighborhood. Orchard Homes Single Family Residences, a part of the Orchard Farms Planned Residential Unit Development

The Subassociation of Owners shall not allow anything to be built upon or interfere with said easement areas.

47.6.4 No assurances are made concerning:

47.6.4.1 The locations of any improvement that may be made on any portion of the Additional Land that may be added to the Orchard Homes Single Family Residences Project.

47.6.4.2 Type, kind or nature of improvement which may be created on any portion of the Additional Land, except that the common facilities, Buildings and Lots will be comparable to the Phase I facilities on a per Lot basis and will be of a similar quality of materials and construction to Phase I and will be substantially completed prior to annexation.

47.6.4.3 Whether any Lots created on any portion of the Additional Land will be substantially identical to those within the initial Orchard Homes Single Family Residences Project except that Lots will be constructed of an equal or better quality of materials and construction than the Lots in Phase I.

47.6.5 Notwithstanding anything to the contrary which may be contained herein, the Declaration is not intended, and shall not be construed so as to impose upon Declarant any obligation respecting, or to restrict Declarant in any way with regard to: (a) the submission of any portion of the Additional Land to the provisions of the Act as Land under this Declaration; (b) the creation, construction, or addition to the Orchard Homes Single Family Residences Project of any additional property; (c) the carrying out in any particular way or within any particular time of any development which may be undertaken except as herein mentioned; or (d) the taking of any particular action with respect to the Additional Land, the Orchard Homes Single Family Residences Project, or any Land.

47.6.6 Assuming that only Phase 1 of the Single Family Neighborhood is completed, the minimum number of Lots would be 25 and the maximum ownership interest of each Lot in the Subassociation would be 41.00%. Assuming all Phases in the Project are completed and all of the Additional Land is added to the Project (a) the maximum number of Lots would be 60; (b) there would be approximately _____ acres; (c) the minimum ownership interest of each Lot in the Association would be 1.67%; provided, however, the number of Lots actually constructed and the actual ownership interest of each Lot in the Association may actually be somewhere in between the numbers and percentages set forth above.

48. Combination of Lots. An Owner of two or more adjoining Lots shall have the right upon approval of the Board of Directors, City, and the mortgagees of said Lots, to combine one or more adjoining Lots or portions thereof and to alter or amend the declaration and map to reflect such combination.

48.1 Such amendments may be accomplished by the Owner recording an amendment or amendments to this declaration, together with an amended map or maps containing the same information with respect to the altered Lots as required in the initial declaration and map with respect to the initial Lots. All costs and expenses required in such amendments shall be borne by the Owner desiring such combination.

48.2 All such amendments to the Declaration and Orchard Homes Single Family Residences Final Plat for the Orchard Farms Single Family Residences Neighborhood must be approved by City and attorneys employed by the Board of Directors to insure the continuing legality of the Declaration and the Final Plat for the Orchard Farms Single Family Residences Neighborhood. The cost of such review by the attorneys shall be borne by the person wishing to combine the Lots.

48.3 Any amendments of the Declaration or Orchard Homes Single Family Residences Final Plat for the Orchard Farms Single Family Residences Neighborhood pursuant to this Section shall reflect the changes occasioned by the alteration. Such changes shall include a change in the percentage of undivided interest in the Common Area and facilities which are appurtenant to the Lots involved in the alterations. The percentage of undivided interest in the Common Area and Facilities and facilities appurtenant to all other Lots shall not be changed. All such amendments must, in all instances, be consented to by the Board of Directors and also all other persons holding interest in the Lots affected. The consent of other Owners need not be obtained to make such amendments or alterations valid, providing the percentages of undivided interest in the Common Area and Facilities of the other Owners remain unchanged.

49. Alterations to the Common Area and Facilities. Anything to the contrary notwithstanding and until the termination of the Period of Declarant's Control, the Declarant may create and/or make changes to the Common Area and Facilities without the consent of either the Subassociation or the Board of Directors; 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 and Facilities including but not limited to the construction or installation of any additions, the extension or enclosure of any existing structures not shown on the approved plans and specifications, without the prior written consent of the Board of Directors.

50. Transfer of Management. Anything to the contrary notwithstanding, Declarant may at any time relinquish its reserved right (as a Class B Member) to select the Directors and may elect to transfer the management of the Orchard Homes Single Family Residences Project to a Board of Directors elected by the Owners. Upon the termination of the Period of Declarant's Control, Declarant shall notify Owners in writing of the effective date of such transfer (the "Transfer Date") and call a meeting to elect the Directors to take office as of the Effective Transfer Date; provided, however, Declarant may appoint up to one Director until the year 2061. Declarant covenants to cooperate with the Owners in effecting an orderly transition of management. Moreover, Declarant shall cause all obligations for Common Expenses of the

Subassociation prior to the Transfer Date to be paid in full on or before such date, and shall transfer any Subassociation funds to the newly elected Board of Directors.

51. 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 genders.

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

53. Covenants to Run with Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of Subassociation, all other signatories hereto, all parties who hereafter acquire any interest in a Lot or in the Orchard Homes Single Family Residences Project, and their respective grantees, transferees, heirs, devisees, personal representative, successors, and assigns. Each Owner or occupant of a Lot shall comply with, and all interests in all Lots shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, supplements, amendments, and determinations contemplated by this Declaration. By acquiring any interest in a Lot in the Orchard Homes Single Family Residences Project, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

54. Enforcement and Right to Recover Attorneys Fees.

54.1 General Remedies. Should the MHOA, Subassociation, Board of Delegates, Board of Directors or an aggrieved 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 attorneys fee, which may arise or accrue.

54.2 Additional Remedies. In addition, the Board of Delegates or Board of Directors may impose the following sanctions after proper notice and the opportunity to be heard:

54.2.1 imposing Individual Charges and fines, which may be secured by a lien against the Owner's interest in the Property;

54.2.2 suspending an Owner's right to vote;

54.2.3 suspending any Person's right to use any of the recreational amenities located in the Common Area and Facilities; provided, however, nothing herein

contained shall authorize the Board of Directors to limit ingress or egress to or from a Lot or Dwelling Unit;

54.2.4 exercising self-help or taking action to abate any violation of the Orchard Homes Single Family Residences Project Documents in a non-emergency situation;

54.2.5 exercising self-help in any emergency situation (specifically including but not limited to the towing of vehicles that are in violation of the parking rules);

54.2.6 requiring an Owner at his sole expense to remove any structure or improvement in the Common Area and Facilities, and upon the failure of the Owner to do so, the Board of Directors or its designee shall have the right to enter the property and remove the violation and restore the property to its original condition, and such action shall not be deemed a trespass;

54.7 without liability to any Person, precluding any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the Project Documents; and

54.8 levying Individual Charges to cover costs and expenses incurred by the MHOA or Subassociation to bring an Owner into compliance.

55. Agreement to Share Costs. The Declarant or the Subassociation may enter into a contract or agreement, which includes a Covenant to Share Costs, for the use of facilities or the procurement of services for the benefit of the MHOA, Subassociation, and the present and future Owners which obligates the MHOA, Subassociation and such Owners to share the costs of maintaining and/or operating the same.

56. Agent for Service of Process. The President of the Subassociation is the person to receive service of process. The initial President and Registered Agent is Christopher P. Gamvroulas and the initial office of the Registered Agent is 978 East Woodoak Lane, Salt Lake City, Utah 84117.

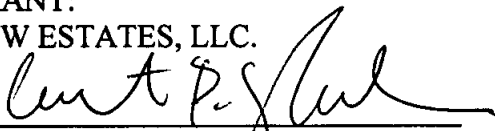
57. Management. The Association must be managed either (a) by the Declarant or one of Declarant's employees, agents, representatives, designees or affiliates or (b) a professional property manager or management company selected by the Board of Directors (the "Manager"), anything to the contrary notwithstanding. This section may not be changed without the prior express written consent of Declarant, its successors or assigns. The same Manager must manage the Master Association and the Orchard Farms Town Homes.

58. Term. This Declaration shall continue for a term of fifty (50) years from its date of recordation. Thereafter, this Declaration shall be automatically extended for successive periods of ten (10) years until a vote of greater than fifty percent (50.01%) of the Members determines that this Declaration shall terminate.

58. Effective Date. This Declaration, any amendment or supplement hereto, and any amendment or supplement to the Final Plat for the Orchard Farms Single Family Residences Neighborhood shall take effect upon its being filed for record in the Office of the County Recorder.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand this 11 day of May, 2011.

DECLARANT:
FAIRVIEW ESTATES, LLC.

By: 
Name: Christopher P. Gamvroulas
Title: Manager

ACKNOWLEDGMENT

STATE OF UTAH)
 ss:
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 12 day May, 2011 by Christopher P. Gamvroulas, the Manager of FAIRVIEW ESTATES, LLC., a Utah limited liability company, and said Christopher P. Gamvroulas duly acknowledged to me that said FAIRVIEW ESTATES, LLC. executed the same.

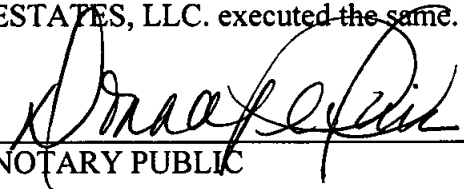

NOTARY PUBLIC



EXHIBIT "A"
LEGAL DESCRIPTION OF ORCHARD FARMS SINGLE FAMILY RESIDENCES

The land referred to in the foregoing document as Orchard Farms Single Family Residences is located in Davis County, Utah and is described more particularly as follows:

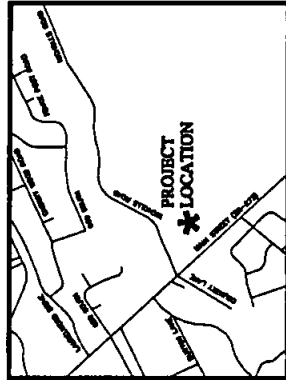
Including lots 127 thro 151. of
Orchard Farms PRUD Phase 1.

ORCHARD FARMS P.R.U.D. PHASE 1

LOCATED IN A PORTION OF ALL QUARTERS OF SECTION 2, TOWNSHIP 3 NORTH, RANGE 1 WEST,
SALT LAKE BASE AND MERIDIAN
FRUIT HERRIS CITY, DAVIS COUNTY, UTAH

GENERAL NOTES
1. ALL RIGHTS RESERVED SHALL BE PUBLIC UTILITY COMPANIES (P.U.C.)

ELEVATION BENCHMARK
FRUIT HERRIS CITY, UTAH, ELEVATION 5100.00 FEET (AS MEASURED BY THE SURVEYOR)



LEGAL DESCRIPTION

THESE SURVEYED LOTS ARE PART OF THE ORCHARD FARMS P.R.U.D. PHASE 1, AS SHOWN ON THE PLAT OF THE SURVEY, AND ARE BEING OFFERED FOR SALE TO THE PUBLIC BY THE SURVEYOR. THE SURVEYOR HAS CONDUCTED A VISUAL INSPECTION OF THE LOTS AND HAS FOUND THEM TO BE IN ACCORDANCE WITH THE PLAT OF THE SURVEY. THE SURVEYOR HAS ALSO CONDUCTED A VISUAL INSPECTION OF THE LOTS AND HAS FOUND THEM TO BE IN ACCORDANCE WITH THE PLAT OF THE SURVEY. THE SURVEYOR HAS ALSO CONDUCTED A VISUAL INSPECTION OF THE LOTS AND HAS FOUND THEM TO BE IN ACCORDANCE WITH THE PLAT OF THE SURVEY.

OWNERS DEDICATION

THE UNDERSIGNED, OWNER OF THE LOTS, HEREBY DEDICATES THE LOTS TO THE PUBLIC AS SHOWN ON THE PLAT OF THE SURVEY. THE UNDERSIGNED HAS CONDUCTED A VISUAL INSPECTION OF THE LOTS AND HAS FOUND THEM TO BE IN ACCORDANCE WITH THE PLAT OF THE SURVEY. THE UNDERSIGNED HAS ALSO CONDUCTED A VISUAL INSPECTION OF THE LOTS AND HAS FOUND THEM TO BE IN ACCORDANCE WITH THE PLAT OF THE SURVEY.

LIMITED LIABILITY ACKNOWLEDGMENT

THE UNDERSIGNED HAS CONDUCTED A VISUAL INSPECTION OF THE LOTS AND HAS FOUND THEM TO BE IN ACCORDANCE WITH THE PLAT OF THE SURVEY. THE UNDERSIGNED HAS ALSO CONDUCTED A VISUAL INSPECTION OF THE LOTS AND HAS FOUND THEM TO BE IN ACCORDANCE WITH THE PLAT OF THE SURVEY.

ISSUED BY: _____
RESIDING IN: DAVIS COUNTY

SHEET 01 OF 02



RECORDED #

FILE OF CITY CLERK OF DAVIS COUNTY, UTAH
RECORDED AND FILED IN THE OFFICE OF THE CITY CLERK OF DAVIS COUNTY, UTAH, ON _____ DAY OF _____, 20____.

CITY COUNCIL

APPROVED AS TO FORM AND CONTENT BY THE CITY COUNCIL OF FRUIT HERRIS CITY, UTAH, ON _____ DAY OF _____, 20____.

CITY ATTORNEY

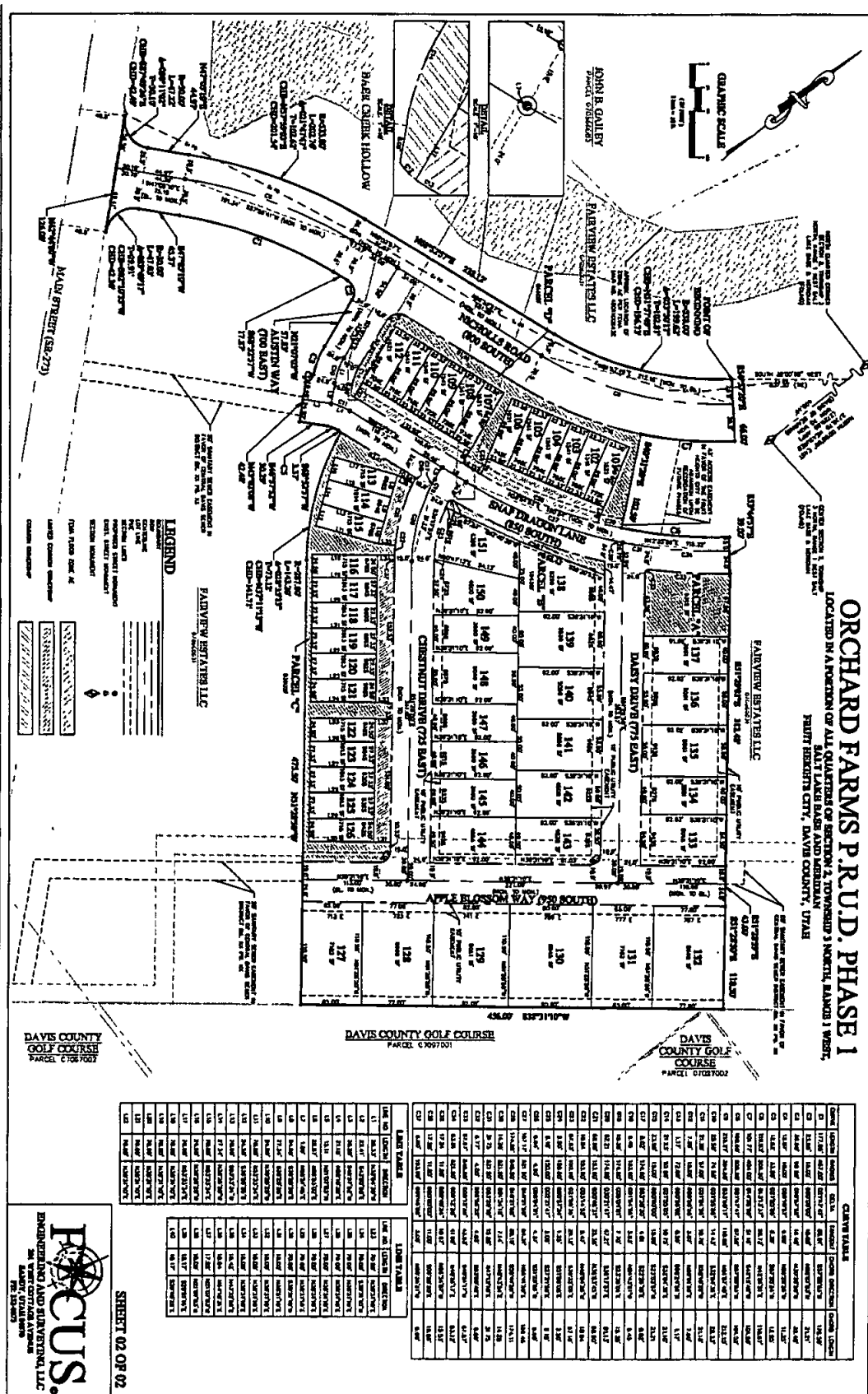
APPROVED AS TO FORM AND CONTENT BY THE CITY ATTORNEY OF FRUIT HERRIS CITY, UTAH, ON _____ DAY OF _____, 20____.

CITY ENGINEER

APPROVED AS TO FORM AND CONTENT BY THE CITY ENGINEER OF FRUIT HERRIS CITY, UTAH, ON _____ DAY OF _____, 20____.

PLANNING COMMISSION

APPROVED AS TO FORM AND CONTENT BY THE PLANNING COMMISSION OF FRUIT HERRIS CITY, UTAH, ON _____ DAY OF _____, 20____.



ORCHARD FARMS P.R.U.D. PHASE 1
 LOCATED IN A PORTION OF ALL QUARTERS OF SECTION 7, TOWNSHIP 3 NORTH, RANGE 1 WEST,
 SALT LAKE BASIN LAND WARRANT
 PEARL HERBERTS CITY, DAVIS COUNTY, UTAH

LEGEND

- SOLID LINE: PROPERTY BOUNDARY
- DASHED LINE: EASEMENT
- DIAGONAL HATCH: CONCRETE DRIVEWAY
- DOTTED HATCH: ASPHALT DRIVEWAY
- CROSS-HATCH: GRAVEL DRIVEWAY
- STIPPLE: SANDSTONE
- WAVE HATCH: GRAVEL
- DIAMOND HATCH: ASPHALT
- GRID: PROPERTY CORNER

DAVIS COUNTY GOLF COURSE
 10000 S. 1000 E.
 84400 1000

DAVIS COUNTY GOLF COURSE
 10000 S. 1000 E.
 84400 1000

LOT NO.	OWNER	LOT NO.	OWNER
128	DAVIS COUNTY GOLF COURSE	137	DAVIS COUNTY GOLF COURSE
129	DAVIS COUNTY GOLF COURSE	138	DAVIS COUNTY GOLF COURSE
130	DAVIS COUNTY GOLF COURSE	139	DAVIS COUNTY GOLF COURSE
131	DAVIS COUNTY GOLF COURSE	140	DAVIS COUNTY GOLF COURSE
132	DAVIS COUNTY GOLF COURSE	141	DAVIS COUNTY GOLF COURSE
133	DAVIS COUNTY GOLF COURSE	142	DAVIS COUNTY GOLF COURSE
134	DAVIS COUNTY GOLF COURSE	143	DAVIS COUNTY GOLF COURSE
135	DAVIS COUNTY GOLF COURSE	144	DAVIS COUNTY GOLF COURSE
136	DAVIS COUNTY GOLF COURSE	145	DAVIS COUNTY GOLF COURSE
137	DAVIS COUNTY GOLF COURSE	146	DAVIS COUNTY GOLF COURSE
147	DAVIS COUNTY GOLF COURSE	147	DAVIS COUNTY GOLF COURSE

FOCUS
 ENGINEERING AND SURVEYING LLC
 28 WEST CENTRAL AVENUE
 SALT LAKE CITY, UTAH 84119
 (801) 466-1111

EXHIBIT "B"

OPERATING AGREEMENT AND TERMS OF RECIPROCAL USE EASEMENT

1. This agreement is non-exclusive.
2. This agreement is not revocable and may not be modified without the prior written consent of Fairview Estates, LLC or its successors and assigns.
3. The Easement, which shall run with the land, is intended to provide pedestrian and vehicular access and circulation to, through, over, across and from the land subject to the Master Declaration of Covenants, Conditions and Restrictions, and Reservation or Grant of Easements for Orchard Farms Planned Residential Unit Development and the Orchard Farms Apartments via the Roads shown on the Final Plat to satisfy the site plan approval requirements of the City of Fruit Heights, Utah for the development of said properties. The property shall hereafter be subject to and burdened by an easement for the benefit of said parcels for such purpose.
4. The Easement is also intended to provide Landscaping and Open Space. The property shall hereafter be subject to and burdened by an easement for the benefit of said parcels for such purpose.
5. The improvements within the Reciprocal Use Easement shall be constructed and maintained in a good and useful condition by the respective property owners, with damages caused by another lot owner or his guests or invitees to be reasonably repaired by that lot owner at his sole expense. For purposes of such repairs the lots shall be subject to and burdened by temporary construction easements over such portions of the lots as are reasonably necessary for the performance of the required maintenance or repair.
6. This easement and the rights and obligations set forth herein are permanent and perpetual and intended to bind the parties hereto, their heirs, successors and assigns, and their respective properties, as equitable servitudes, and to run with the land.
7. This agreement and the cross easements granted may not be changed or expanded except by a writing signed by the parties hereto or their heirs, successors or assigns.
9. Nothing contained herein shall be deemed to be a gift or dedication of any portion of any of the properties described herein or the Reciprocal Use Easement to or for the general public or for any public purposes whatsoever, it being the intention of the parties that this cross easement be strictly limited for the purposes expressed herein.
10. The parties do not by this Reciprocal Use Easement in any way or for any purpose become partners or joint ventures with each other.
11. If any provisions herein contained is held to be invalid or void by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Reciprocal Use Easement and shall in no way affect any other provisions herein

contained. If such provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

12. The cost to maintain the Reciprocal Use Easement shall be allocated in the manner set forth in the Master Declaration.

13. The property described in Exhibit "B" is known or to be known as the "Reciprocal Use Easement Area".

14. The Master Association shall maintain the Reciprocal Use Easement Area in good condition at its sole cost.

15. The Orchard Farms Apartments shall pay the Orchard Farms Apartments Assessment to the Master Association annually, although it may elect to make payments in installments.

16. Any waiver by either party of any breach of any kind or character whatsoever by the other, whether such be direct or implied, shall not be construed as a continuing waiver of, or consent to, any subsequent breach of this Reciprocal Use Easement. To be effective, any waiver must be signed by the party waiving the right.

17. In the event of the failure of any party hereto to comply with any provisions of this Reciprocal Use Easement, the defaulting party shall pay any and all costs and expenses, including reasonably attorneys fee, arising out of or resulting from such default, incurred by the injured party in enforcing its rights and remedies, whether such right or remedy is pursued by filing a lawsuit or otherwise.

18. There are no representations, warranties, covenants, or agreements between the parties as to the subject- matter of this Reciprocal Use Easement except as are specifically set forth herein. This writing contains the entire agreement between the parties hereto pertaining to the matters that are set forth herein and supersedes all prior verbal or written agreements of the parties relation thereto.

EXHIBIT "C"
BYLAWS OF THE
ORCHARD FARMS SINGLE FAMILY RESIDENCES SUBASSOCIATION

ARTICLE I
NAME AND LOCATION

Section 1 .01 Name and Location. The name of the Subassociation is Orchard Farms Single Family Residences Subassociation (the "Subassociation"). The principal office of the corporation shall be located at 978 East Woodoak Lane, Salt Lake City, UT 84117, but meetings of Members and Board of Directors may be held at such places within the State of Utah, as may be designated by Board of Directors.

ARTICLE II
DEFINITIONS

Section 2.01 Definitions. Except as otherwise provided herein or as may be required by context, all terms defined in Paragraph 1 of the Neighborhood Declaration shall have such defined meanings when used in these Bylaws.

ARTICLE III
MEETINGS OF MEMBERS OF THE SUBASSOCIATION

Section 3.01 Annual Meeting. The Subassociation shall meet as often as it deems reasonably necessary but not less than annually at a convenient time and place.

Section 3.02 Special Meetings. Special meetings of Subassociation may be called at any time by the President or by a majority of the Directors or by the written request of at least twenty-five percent (25%) of the Owners.

Section 3.03 Notice of Meetings. Written notice of each meeting of the Subassociation shall be given to each Owner by or at the direction of the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to said Owner addressed to the Owner's address last appearing on the books of the Subassociation, or supplied by such Owner to the Subassociation for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 3.04 Quorum. A majority of the Owners present shall constitute a quorum for any action except as otherwise provided in the Articles, the Neighborhood Declaration, or these Bylaws.

Section 3.05 Proxies. At all Subassociation meetings, each Owner may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall

be revocable and shall expire, if not previously revoked, eleven (11) months after the date it is given by the Owner.

Section 3.06 Action Taken Without a Meeting. The Association shall have the right to take any action in the absence of a meeting which it could take at a meeting. Any action so approved shall have the same effect as though taken at a meeting of the Association.

ARTICLE IV BOARD OF DIRECTORS AND TERM OF OFFICE

Section 4.01 Number. The affairs of the Subassociation shall be managed by a Board of Directors comprised of three (3) natural persons. Each Member must be duly qualified and appointed or elected.

Section 4.02 Replacement. If a Member resigns or is otherwise unable or unwilling to serve, then the remaining Members shall appoint a replacement to complete his term of office.

Section 4.03 Term of Office. Each Directors shall serve a term of at least two (2) years.

Section 4 04 Compensation. No Member shall receive compensation for any service he may render to the Subassociation as a member of the Board of Directors, although he may be reimbursed for his actual expenses incurred in the performance of his duties and may enter into an independent contract to provide other services. A Member may enter into a separate and independent contract with the Subassociation to provide additional services for a fee.

Section 4.05 Regular Meetings. The Board of Directors shall meet as often as it deems reasonably necessary at a convenient time and place.

Section 4.06 Special Meetings. Special meetings of Board of Directors may be called at any time by the President or by a majority of the Directors.

Section 4.07 Notice of Meetings. Written notice of each meeting of the Board of Directors shall be given to each Director by or at the direction of the Secretary or person authorized to call the meeting by hand-delivery, mail, e-mail, fax or by posting on the Community bulletin board. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4.08 Quorum. A majority of the Directors present, in person or by proxy, shall constitute a quorum for any action except as otherwise provided in the Articles, the Neighborhood Declaration, or these Bylaws.

Section 4.09 Action Taken Without a Meeting. The Board of Directors shall have the right to take any action in the absence of a meeting which it could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Board of Directors.

Section 4.06 Voting. Each Member shall have one vote.

**ARTICLE V
POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

Section 5.03 Powers. The Subassociation shall have all of the powers of a Utah non-profit corporation, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws and this Neighborhood Declaration. The Subassociation shall have the power to perform any and all lawful acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the Subassociation. Without in any way limiting the generality of the foregoing, the Subassociation may act through its Board of Directors and shall specifically have the powers and duties set out in this Article V, including

Section 5.03.1 Assessments. The power and duty to levy Assessments on the Owners, and to enforce payment of such assessments in accordance with the Neighborhood Declaration.

Section 5.03.2 Subassociation Property. The right to own and/or lease the Subassociation Property and the duty to maintain and manage the Common Area and Facilities and improvements thereon. In particular the Subassociation shall:

- a. Maintain and repair in an attractive, safe and functional condition the Common Area and Facilities;
- b. Pay all taxes and assessments levied upon the Common Area and Facilities and all taxes and assessments payable by the Subassociation;
- c. Obtain any water, sewer, gas and electric services needed for the Common Area and Facilities; and
- d. Do each and every other thing reasonable and necessary to operate the Common Area and Facilities and the Subassociation.

**ARTICLE VI
OFFICERS AND THEIR DUTIES**

Section 6.01 Enumeration of Officers. The officers of the Subassociation shall be a president and secretary, plus such other officers as the Board of Directors may from time to time by resolution create. The same individual may not hold the office of president

and secretary at the same time. The officers need not be Members of the Board of Directors.

Section 6.02 Election of Officers. The Board of Directors shall elect or appoint officers at the first meeting of the Board of Directors during each calendar year.

Section 6.03 Term. Each officer of the Subassociation shall hold office for one (1) year unless he shall sooner resign, or shall be removed or otherwise disqualified to serve.

Section 6.04 Special Appointments. The Board of Directors may elect such other officers as the affairs of the Subassociation may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board of Directors may from time to time determine.

Section 6.05 Resignation and Removal. Any officer may be removed from office with or without cause by a majority vote of the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6.06 Vacancies. A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 6.07 President. The president shall (a) preside at all meetings of the Board of Directors, (b) see that orders and resolutions of the Board of Directors are carried out and (c) sign all contracts.

Section 6.08 Secretary. The secretary shall (a) record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the Subassociation, (b) keep the corporate seal of the Subassociation and affix it on all papers requiring said seal, (c) serve notice of meetings of the Board of Directors and of the Subassociation, (d) keep appropriate current record showing the Members of the Subassociation together with their addresses and (e) perform such other duties as may be required by the Board of Directors.

ARTICLE VII SUBCOMMITTEES

Section 7.01 Subcommittees. The Board of Directors may appoint such subcommittees as deemed appropriate in carrying out its purpose.

**ARTICLE VIII
BOOKS AND RECORDS**

Section 8.01 Books and Records. The books and records shall be kept with detailed accounts of the receipts and expenditures affecting the Tract, and the administration of the Tract, specifying the maintenance, repair and any other expenses incurred. The books and records, including any invoices, receipts, bills, proposals, documents, financial statements, and vouchers accrediting the entries thereupon shall be available for examination by the Owners, their duly authorized agents or attorneys, during general business hours on working days at the times and in the manner that shall be set and announced by the Board of Directors for the general knowledge of the Owners. All books and records shall be kept in accordance with generally accepted accounting practices.

Section 8.02 Signatures. All checks, drafts, contracts, and legally binding agreements shall be signed by persons authorized by the Board of Directors.

Section 8.03 Bookkeeping. The accounting and financial statements for Subassociation must be kept and prepared by either the property manager or an independent bookkeeper or accountant, who may not be a member of the Board of Directors or an officer of the Subassociation. A monthly profit and loss statement, balance sheet, and check register shall be sent or delivered designee by the bookkeeper or accountant to each Member and Subassociation or their designee. The accountant or bookkeeper shall prepare and file all tax returns for the Subassociation.

Section 8.04 Audit. Either a (a) majority vote of the Directors or (b) majority vote of all of the Owners is necessary and sufficient to require either a Compilation Report, Reviewed Statement or Audited Statement of the MHOA, the cost of which shall be considered a Neighborhood Common Expense.

**ARTICLE IX
AMENDMENTS**

Section 9.01 Amendment to Bylaws. These Bylaws may only be amended (a) unilaterally by the Declarant until the expiration of the Period of Declarant's Control or (b) the affirmative vote of a majority of the Owners or (c) the affirmative vote of a majority of the Directors.

Section 9.02 Conflict Between Articles, Bylaws and Neighborhood Declaration. In the case of any conflict between the Neighborhood Declaration and these Bylaws, the Neighborhood Declaration shall in all respects govern and control.

