

DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
STONE CLIFF TOWNHOMES
A RESIDENTIAL PLANNED UNIT DEVELOPMENT

This Declaration of Covenants, Conditions and Restrictions, hereinafter called "Declaration," is made and executed in St. George, Washington County, State of Utah, this 17th day of September, 1998, by TRAVELLER/STONE CLIFF, L.C., hereinafter called "Declarant."

RECITALS

A. Declarant is the owner of certain real property in the County of Washington, State of Utah, which is more particularly described as follows:

BEGINNING AT A POINT WHICH LIES N 89°01'48" W 2027.83 FEET ALONG THE SECTION LINE AND SOUTH 1399.80 FEET FROM THE NORTHEAST CORNER OF SECTION 4, TOWNSHIP 43 SOUTH, RANGE 15 WEST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE S 42°35'39" E 27.88 FEET TO THE POINT OF A 15.00 FOOT RADIUS CURVE TO THE LEFT; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE 13.21 FEET TO THE POINT OF A 40.00 FOOT RADIUS REVERSE CURVE TO THE RIGHT (CENTER BEARS S 03°04'22" E); THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE 25.41 FEET; THENCE N 33°19'46" E 20.00 FEET TO A POINT ON A 60.00 FOOT RADIUS CURVE TO THE RIGHT (CENTER BEARS N 33°19'46" E); THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE 116.02 FEET; THENCE S 28°17'11" E 516.75 FEET; THENCE S 75°44'23" E 75.89 FEET; THENCE S 41°30'59" E 64.00 FEET; THENCE S 48°29'01" W 96.15 FEET; THENCE S 86°43'31" W 31.94 FEET TO A POINT ON A 40.00 FOOT RADIUS CURVE TO THE RIGHT (CENTER BEARS S 79°31'49" W); THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE 45.14 FEET; THENCE S 35°08'34" E 24.48 FEET; THENCE S 11°01'41" E 78.00 FEET; THENCE S 78°58'19" W 64.00 FEET; THENCE N 11°01'41" E 11.12 FEET; THENCE N 59°34'25" W 123.61 FEET; THENCE N 38°38'41" W 137.80 FEET; THENCE N 30°25'35" E 96.45 FEET TO A POINT ON A 180.00 FOOT RADIUS CURVE TO THE RIGHT (CENTER BEARS N 52°57'32" E); THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE 34.00 FEET; THENCE S 30°25'35" W 100.89 FEET; THENCE N 38°38'41" W 55.47 FEET; THENCE N 23°52'35" W 174.56 FEET; THENCE N 39°53'24" W 146.73 FEET; THENCE N 59°34'25" W 65.09 FEET; THENCE N 02°18'28" W 161.00 FEET TO A POINT ON A 650.00

FOOT RADIUS CURVE TO THE LEFT (CENTER BEARS N 22°53'34" W); THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE 243.51 FEET TO THE POINT OF BEGINNING.

B. The property herein described has been platted and developed under the name of Stone Cliff Townhomes, a Residential Planned Unit Development, said official plat having been or to be recorded in the office of the Washington County Recorder.

C. Declarant intends to annex expandable land whose owners will become members of the Association and will be entitled and subject to all rights, powers, privileges, covenants, restrictions, easements, charges, and liens set forth hereafter.

D. Declarant desires to provide for preservation and enhancement of the property values and amenities of the property and for maintenance of the Common Areas. To this end and for the benefit of the property and of the owners thereof, the Declarant desires to subject the properties referred to in Recital A and Recital C to the covenants, restrictions, easements, charges, and liens hereinafter set forth, each and all of which are for the benefit of the property and each owner thereof.

NOW, THEREFORE, Declarant declares that the property is and shall be held, sold, and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of said property and which shall be construed as covenants of equitable servitude, which shall run with the real property and shall be binding on all parties having any right, title or interest in the described property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I
DEFINITIONS

Section 1. "Board of Trustees" shall mean the governing board of the Homeowners Association.

Section 2. "Common Area" shall mean all real property (including all improvements located thereon) presently owned by the Homeowners Association or hereafter acquired for the common use and enjoyment of the members and not dedicated for the general public located in Washington County, State of Utah, to-wit:

BEGINNING AT A POINT WHICH LIES N 89°01'48" W 2027.83 FEET ALONG THE SECTION LINE AND SOUTH 1399.80 FEET FROM THE NORTHEAST CORNER OF SECTION 4, TOWNSHIP 43 SOUTH, RANGE 15 WEST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE S 42°35'39" E 27.88 FEET TO THE POINT OF A 15.00 FOOT RADIUS CURVE TO THE LEFT; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE 13.21 FEET TO THE POINT OF A 40.00 FOOT RADIUS REVERSE CURVE TO THE RIGHT (CENTER BEARS S 03°04'22" E); THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE 25.41 FEET; THENCE N 33°19'46" E 20.00 FEET TO A POINT ON A 60.00 FOOT RADIUS CURVE TO THE RIGHT (CENTER BEARS N 33°19'46" E); THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE 116.02 FEET; THENCE S 28°17'11" E 516.75 FEET; THENCE S 75°44'23" E 75.89 FEET; THENCE S 41°30'59" E 64.00 FEET; THENCE S 48°29'01" W 96.15 FEET; THENCE S 86°43'31" W 31.94 FEET TO A POINT ON A 40.00 FOOT RADIUS CURVE TO THE RIGHT (CENTER BEARS S 79°31'49" W); THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE 45.14 FEET; THENCE S 35°08'34" E 24.48 FEET; THENCE S 11°01'41" E 78.00 FEET; THENCE S 78°58'19" W 64.00 FEET; THENCE N 11°01'41" E 11.12 FEET; THENCE N 59°34'25" W 123.61 FEET; THENCE N 38°38'41" W 137.80 FEET; THENCE N 30°25'35" E 96.45 FEET TO A POINT ON A 180.00 FOOT RADIUS CURVE TO THE RIGHT (CENTER BEARS N 52°57'32" E); THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE 34.00 FEET; THENCE S 30°25'35" W 100.89 FEET; THENCE N 38°38'41" W 55.47 FEET; THENCE N 23°52'35" W 174.56 FEET; THENCE N 39°53'24" W 146.73 FEET; THENCE N 59°34'25" W 65.09 FEET; THENCE N 02°18'28" W 161.01 FEET TO A POINT ON A 650.00 FOOT RADIUS CURVE TO THE LEFT (CENTER BEARS N 22°53'34" W); THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE 243.51 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPTING THEREFROM LOTS 1 THROUGH 25 AS DESIGNATED ON THE OFFICIAL PLAT OF STONE CLIFF TOWNHOMES, A RESIDENTIAL PLANNED UNIT DEVELOPMENT, RECORDED IN THE OFFICE OF THE WASHINGTON COUNTY RECORDER.

The Homeowners Association may increase the Common Area by purchasing additional adjacent land as provided herein and (1) filing additional subdivision plats in the Washington County Recorder's Office and stating thereon that said land is subject to this Declaration and any supplemental or

amended declarations and (2) filing a Supplement to this Declaration in accordance with the terms of this Declaration and the same thereafter shall be included within this definition as Common Area and such shall also be additional land in the legal description of the Project.

Section 3. "Conveyance" shall mean actual conveyance of fee title to any Lot to any Owner by a warranty deed or other document of title, including entering into an installment sales contract.

Section 4. "Declarant" shall mean and refer to Traveller/Stone Cliff, L.C., its successors and assigns, if such successors or assigns shall acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 5. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Washington County Recorder's Office.

Section 6. "Expandable Land" shall mean and refer to those portions of land set forth in Exhibit A attached hereto and made a part hereof, which sets forth property upon which Declarant has an interest in and upon which Declarant may expand the Project in one or more phases.

Section 7. "Recreational Vehicles" shall mean camping trailer, tent trailer, motorhome, pickup truck with self-contained camper unit, boat, all terrain vehicle (ATV), converted bus used as a motorhome, and any trailer used for transporting any recreational vehicle. Recreational Vehicles shall not include a pickup truck with a shell on the bed and which shell is not used primarily for overnight camping.

Section 8. "Homeowners Association" or "Association" shall mean and refer to Stone Cliff Townhomes Homeowners Association, a Utah nonprofit corporation, its successors and assigns.

Section 9. "Limited Common Areas" shall mean and refer to those Common Areas as referred to herein and designated on the plat as reserved for use of a certain Unit to the exclusion of the other Units which are or may include the driveways, adjacent yard areas, patios, which lead to or are associated with certain Units or both. Limited Common Areas are a subcategory of and are included in Common Areas.

Section 10. "Living Unit" or "Unit" shall mean and refer to a structure which is designed and intended for use and occupancy as a single family residence, together with all improvements located on the Lot concerned which are used in conjunction with such residence.

Section 11. "Lot" shall mean and refer to any numbered plot of land shown upon any recorded subdivision map of the Properties, with the exception of the Common Area.

Section 12. "Member" shall mean every person or entity holding membership in the Association.

Section 13. "Mortgagee" shall mean and refer to any person named as a first mortgagee or beneficiary of a first deed of trust.

Section 14. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract purchasers, but excluding those having an interest merely as security for the performance of an obligation.

Section 15. "Plat" and "Phase" shall mean Stone Cliff Townhomes, a Residential Planned Unit Development as recorded in the office of the County Recorder of Washington County, Utah, and as the same may hereafter be modified, amended, supplemented, or expanded in accordance with the provisions of this Declaration or supplements to this Declaration which are to occur in conjunction with the expansion of the Project as provided herein. "Plat" and "Phase" shall also mean and refer to subsequent official plats as the same may be filed in the office of the Washington County Recorder from time to time by the Declarant, with each such plat/phase designating additional Lots and Common Area added to and lying within the expandable Project.

Section 16. "Properties," "Property" and "Project" shall mean that certain real property referred to in Recitals A and C and included herein by this reference, plus improvements and such additions thereto as may hereafter be expanded and brought within the jurisdiction of the Homeowners Association as provided in Article IX hereafter and is also sometimes referred to as Stone Cliff Townhomes.

Section 17. "Supplementary Declaration" shall mean any supplementary declaration of covenants, conditions, and restrictions, or similar instrument, which extends the provisions of the Declaration to all or any portion within the expandable land and containing such complimentary or amended provisions for such additional land as are herein required by the Declaration.

Section 18. "Time-sharing" shall mean the shared contractual ownership of a Living Unit whereby each Owner's right to use the Unit is limited to a certain period of the year. Time-sharing shall include plans that employ contractual rights and those that employ estates in land, such as (a) vacation leases whereby the Owner or Declarant conveys recurring leasehold interest to time-share purchasers and retains a reversion in fee simple, and (b) interval ownership whereby the Owner or Declarant conveys recurring leasehold interest to time-share purchasers and also conveys to them a co-ownership of a

remainder in fee simple. Time-sharing shall not include Units owned in fee simple by a corporation, partnership or other business entity and used as a perk for employees or as a place to entertain clients and potential clients of Owner.

Section 19. "Townhome" shall mean and refer to a single family dwelling unit constructed by Declarant on a Lot.

Section 20. "Utilities" shall mean public utilities, including, but not limited to, sewer, water, drainage, natural gas, telephone, electricity, and cable television.

ARTICLE II PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment to Common Areas. Every Lot Owner shall have a right and easement of use and enjoyment including, but not limited to, the right of ingress and egress to and from his Lot and in and to the Common Area, which easement shall be appurtenant to and shall pass with title to every Lot, subject to the following provisions:

- (a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facilities situated upon the Common Area, provided that such fees charged by the Association shall in no way affect its nonprofit corporation status.
- (b) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and in aid thereof to mortgage said property; the rights of any such mortgagee in said property to be subordinate to the rights of the Owners hereunder;
- (c) The right of the Association to suspend the voting rights of a Member at any meeting of the Members (annual or special) for (1) any period during which an assessment against his Lot remains unpaid, and (2) a period of not to exceed sixty (60) days for each separate violation of the Association's published Rules and Regulations. Notwithstanding the foregoing, for any continuing and ongoing violation of the Association's published Rules and Regulations, the Member's voting right will be suspended until the rule or regulation is complied with.
- (d) With the approval of all the holders of first mortgage liens on Lots, and two-thirds (2/3) of the Owners, the right of the Association to sell, exchange, hypothecate, alienate, encumber, dedicate, release or transfer all or part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as agreed to by the members. The granting of easements for public utilities or other public purposes consistent with the

intended use of such Common Area by the Association shall not be deemed a transfer within the meaning of this clause. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer is signed by two-thirds (2/3) of each class of members and has been recorded.

- (e) The right of the Association to take such steps as are reasonably necessary or desirable to protect the Common Area against foreclosure.
- (f) The right of Declarant and Association to grant and reserve easements and rights-of-way through, under, over and across the Common Area, for installation, maintenance and inspection of lines and appurtenances for public or private utilities and construction of additional Townhomes.
- (g) The right of the City of St. George and any other governmental entity or quasi-governmental body having jurisdiction over the Property to access and have rights of ingress and egress over and across any street, parking area, walkway, or open spaces contained within the Property for purposes of providing police and fire protection and providing any other governmental or municipal service.
- (h) The right of the City of St. George to levy taxes and issue bonds.
- (i) The right of the Board of Trustees to publish and enforce rules and regulations as provided in Article VI, Section 7.

Section 2. Owners' Easements of Enjoyment to Limited Common Areas. Each Lot Owner is hereby granted an irrevocable and exclusive license to use and occupy the Limited Common Areas appurtenant to certain Lots and identified on the official Plats filed on the Project. The exclusive right to use and occupy each Limited Common Area shall be appurtenant to and shall pass with the title to every Lot with which it is associated. A Lot Owner's exclusive right of use and occupancy of Limited Common Areas reserved for their Lot shall be subject to and in accordance with the Declaration and Bylaws.

Section 3. Delegation of Use. Any member may designate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, guests or contract purchasers who reside on the property. All such use by family members, tenants, contract purchasers or guests shall be subject to this Declaration, including all supplements and amendments thereto, the Bylaws, and the Rules and Regulations to be promulgated by the Board of Trustees. Any damage caused to the Common Area, including facilities and personal property owned by the Association, by one to whom a Member's right to use and enjoyment has been delegated shall create a

debt to the Association owed by the Owner and shall be assessed by the Association as provided more fully in Article VI, Section 5.

Section 4. Title to the Common Area. Declarant agrees that it shall on or prior to the last conveyance of a lot in a particular phase, convey to the Association fee simple title to all Common Areas within said phase. Declarant further agrees that it will discharge all liens and encumbrances on said Common Areas on or before the sale and closing of the last Lot in each phase, except for (a) any state of facts an accurate survey may show, (b) covenants, restrictions, easements, encumbrances and liens created by or pursuant to this Declaration, and (c) easements and rights-of-way of record.

Section 5. Limitation of Homeowners Association. The Association shall not be entitled to take any of the following actions unless at least two-thirds (2/3) of the first mortgagees (based on one vote for each Lot mortgaged) or two-thirds (2/3) of the Class A Member Owners shall have first given their prior written approval:

- (a) To act, or by omitting to act, to seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Areas owned, directly or indirectly, by the Association for the benefit of the Lots. The granting of easements for public utilities or other public purposes consistent with the intended use of the Common Areas is not a transfer within the meaning of this clause.
- (b) To act, or by omitting to act, to change, waive, or abandon any scheme of regulations or their enforcement pertaining to the architectural design or the exterior appearance of Lots or Living Units, the exterior maintenance of the Lots or Living Units, the maintenance of the Common Areas, or the upkeep of the Common Areas.
- (c) To fail to maintain fire and extended coverage on insurable Common Areas on a current replacement cost basis in an amount equal to at least one hundred percent (100%) of the insurable value (based on current replacement cost).
- (d) To use hazard insurance proceeds for losses to any Common Area for other than the repair, replacement, or reconstruction of the Common Areas.
- (e) To purchase additional adjacent land as Common Area,
- (f) Except that nothing contained herein shall be construed to limit or prohibit the right of the Board of Trustees from entering into joint use agreements with neighboring associations for the purpose of enhancing and promoting the property rights of Owners consistent with the spirit and intent of this Declaration.

Section 6. Encroachments. If any portion of a Living Unit constructed by Declarant, or if any portion of a Living Unit reconstructed so as to substantially duplicate the Living Unit originally constructed by Declarant, encroaches upon the Common Areas or other Lots, as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the development, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. Board of Trustees. The Board of Trustees shall initially consist of three (3) members. Declarant reserves the right to appoint the Board of Trustees and to exercise all powers and responsibilities associated with the Board of Trustees until December 31, 2005.

Section 3. Classes of Membership. The Association shall have two (2) classes of membership:

- (a) **Class A.** Class A member(s) shall be all Owners, with the exception of Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person owns an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) Class A vote be cast with respect to any Lot.
- (b) **Class B.** The Class B member shall be the Declarant and shall be entitled to five (5) votes for each Lot owned. Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:
1. When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or,
 2. On December 31, 2005.
- (c) **Changes in Voting Procedure.** If Declarant shall exercise his option to expand and add additional Lots, then at such time as additional subdivision plats are filed, the voting shall be adjusted accordingly, and developer may regain his Class B voting status for all lots owned, even if previously converted to Class A status in prior phases and according to the terms hereof.

- (d) **Multiple Ownership Interests.** In the event there is more than one Owner of a particular Lot, a vote relating such Lot shall be exercised as such Owners may determine among themselves. A vote cast at any Association meeting by any such Owner, whether in person or by proxy, shall be conclusively presumed to be the vote attributable to the Lot concerned unless an objection is immediately made by another Owner of the same Lot. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.
- (e) **Limitation on Members' Votes.** Electing members to the Board of Trustees shall be subject to the reservation in Article III, Section 2.

ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant and members, for each Lot owned within the Properties, hereby covenant, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such Deed, is deemed to covenant and agree to pay to the Association: (a) annual assessments, (b) special assessments, and (c) additional assessments as set forth in this Declaration. Assessments shall be levied, fixed, established and collected from time to time as provided below. The assessments, together with interest, costs and reasonable attorney fees shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney fees shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment became due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purpose of promoting the maintenance, health, safety, and welfare of residents of the Property. The use made by the Association of funds obtained from assessments may include payment of the cost of: taxes; insurance; management and supervision of the Common Areas, including personal property owned by the Association and any charges from or out of the Stone Cliff Owners Association pursuant to the Joint Use Agreement; funding the purchase of (a) personal property to be used by Association members and (b) adjacent land to be used as Common Areas; establishing and

funding a reserve to cover major repair or replacement of improvements within the Common Areas; and any expense necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under this Declaration or the Articles of Incorporation.

Section 3. Basis and Maximum of Annual Assessments. Each Lot on which a Living Unit has been constructed and which is certified for occupancy shall be assessed according to the schedule set forth below. For the purpose of annual assessments, the term "Owner" shall exclude the Declarant, who shall pay no assessment (annual or special), unless a Unit owned by Declarant is constructed on a Lot and is occupied as a residence. The annual assessment for each Lot shall be determined by the Board of Trustees setting an annual base assessment.

The Board of Trustees shall fix the base annual assessment at an amount not in excess of the maximum allowed.

- (a) Until December 31, 1999, the maximum annual base assessment shall be \$1200.00 per Lot (or \$100.00 per month).
- (b) From and after December 31, 2000, the maximum annual assessment may be increased each year not more than fifteen percent (15%) above the maximum assessment for the previous year without approval of two-thirds (2/3) of the members of each Class. Any such vote must be taken at a meeting to be called for this purpose.
- (c) The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken incident to (a) a merger or consolidation which the Association is authorized to participate in under its Articles of Incorporation, or (b) an expansion of the Project in phases.

Section 4. Special Assessments. In addition to the annual assessments authorized above, the Association upon assent of two-thirds (2/3) of Class A members at a meeting called for this purpose, may levy in any assessment year a special assessment applicable to the year for the purpose of (a) defraying, in whole or in part, the cost of any construction (including new construction), reconstruction, repair or replacement of any capital improvement upon the Common Area, including fixtures and personal property related thereto; (b) purchasing adjacent property as additional Common Area; (c) providing for capital improvements and personal property to be used by Association Members upon the Common Area on additional phases of the Project and (d) such other purpose as two-thirds (2/3) of all Class A members approve.

Section 5. Reserve Fund. The Association shall maintain a reserve fund, funded by annual assessments. Special assessments for the purpose of defraying, in whole or in part, the cost of any construction (including new construction), reconstruction, repair or replacement of any capital improvement upon the Common Area, including fixtures and personal property related thereto on any phase of the Project, will be allowed only after the reserve fund has been expended and not replenished.

Section 6. Declarant Subsidy. Declarant or its assigns shall have the obligation to subsidize the Association until Declarant's rights as a Class B member terminate as provided in Article III, Section 3. Subsidization shall be defined as the payment of the reasonable cost needs of the Association for ordinary and necessary maintenance expenses of the Common Areas of uncompleted (i.e., all Lots not being sold to first-time buyers) phases of the Project (excluding construction, reconstruction, repair or replacement of any Capital Improvement upon the Common Area, including fixtures and personal property related thereto).

Section 7. Notice and Quorum for any Action Authorized Under Article IV, Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Article IV, Sections 3 and 4, shall be sent to all members not less than thirty (30) days, nor more than sixty (60) days, in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty-six and two-thirds percent (66-2/3%) of all the votes of each Class of membership shall constitute a quorum. If the required quorum is not present, another meeting shall be called subject to the same notice requirement, and the required quorum of the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 8. Rate of Assessment. Annual and special assessments shall be fixed at uniform rates for all Lots and may be collected on a monthly basis.

Section 9. Regular Assessments: Due Dates. The Board of Trustees shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates for payment of said assessment shall be established by the Board of Trustees.

The Association shall, upon demand at any time, furnish a certificate in writing signed by an

officer of the Association setting forth whether the assessments on a specified Lot have been paid. Furthermore, a first mortgage holder, upon request, is entitled to a written certificate from the Association advising of any default by the Lot Owner of any obligation not cured within sixty (60) days. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 10. Effect of Non-Payment of Assessments; Remedies of the Association.

- (a) **Non-Payment.** Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the Association shall have the remedies provided in subsection (b) below.
- (b) **Remedies.** For any delinquent payment as provided in subsection (a) above, the Association shall be entitled to all or any combination of the following remedies against a member whose assessment is delinquent:
- (1). File a notice of lien on the Lot.
 - (2). Bring an action at law against the Owner personally obligated to pay for the following:
 - (a) the principal amount of the unpaid assessment;
 - (b) interest from the date of delinquency at a rate of eighteen percent (18%) per annum, or such other rate as the Board of Trustees may establish from time to time; and
 - (c) all court costs and attorney fees.
 - (3). Foreclose the lien against the Lot to satisfy judgment rendered for the full amount of the delinquent assessment, including interest, costs and attorney fees as specified above.
 - (4). Levy, as an additional sum to such delinquent assessment, all expenses for preparation of the notice of lien (whether or not prepared by an attorney), court costs, interest and reasonable attorney fees.
 - (5). Withhold and interrupt the service of utilities to any such Unit on which the assessment is delinquent.
- (c) **Right to Bring Action.** Each Owner, by his acceptance of a deed to a Lot, hereby expressly grants to the Association, its successors, assigns or agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this Section shall be in favor of the Association and

shall be for the benefit of all other Lot Owners. The Association, acting on behalf of the Lot Owners, shall have the power to bid in an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

Section 11. Non-use and Abandonment. No Owner may waive or escape personal liability for the assessments provided for herein, nor release the Lot owned by him from the liens and charges hereof, by non-use of any Common or Limited Common Area or abandonment of his Lot.

Section 12. Subordination of the Lien to Mortgages. The lien created by this Declaration upon any Lot shall be subject and subordinate to and shall not affect the rights of the holder of the indebtedness secured by any first mortgage (meaning a mortgage with first priority over other mortgages) or equivalent security interest on any Lot, made in good faith and for value, recorded prior to the date any such assessment becomes due. Any holder of a first mortgage lien or equivalent security interest on a Lot who comes into possession by virtue of foreclosure of a mortgage, or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale will take said Lot and the improvements appurtenant thereto free of any claims for unpaid assessment charges against said Lot which accrue prior to the time such holder comes into possession of the Lot, except for the claims for a share of such expenses or charge resulting from a reallocation of such assessment or charges to all Lots including the mortgaged Lot. Any first mortgagee, who obtains title to a Lot in the development pursuant to the remedies in the mortgage/deed of trust or through foreclosure of the mortgage/deed of trust or any other security instrument, shall not be liable for more than six (6) months of the Lot's unpaid dues or charges which have accrued before the acquisition of title to the Lot by the mortgagee through foreclosure. However, no such sale or transfer shall relieve such Lot from liability for any assessments which thereafter become due or from the lien thereof.

Section 13. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein:

- (a) All Properties dedicated to and accepted by any local public authority;
- (b) The Common Area.

Section 14. Additional Assessments. In addition to the annual assessments and special assessments for capital improvements authorized herein, the Association shall levy such assessments as may be necessary from time to time for the purpose of repairing and restoring the damage or disruption resulting to the streets or other Common

Areas or Limited Common Areas from the activities of the City of St. George in maintaining, repairing or replacing utility lines and facilities thereon, it being acknowledged that the ownership of utility lines, underground or otherwise is in the City up to and including the meters for individual Units, and that they are installed and shall be maintained to City specifications.

**ARTICLE V
ARCHITECTURAL CONTROL**

Section 1. Architectural Control Committee.

The Board of Trustees of the Association shall appoint a three (3) member committee (hereinafter sometimes referred to as "ACC") the function of which shall be to insure that all exteriors of Living Units and landscaping within the Property harmonize with existing surroundings and structures. The committee need not be composed of Owners. If such a committee is not appointed, the Board itself shall perform the duties required of the committee.

Section 2. Submission to Committee. No Living Unit, accessory or addition to a Living Unit, landscaping, or other improvement of a Lot shall be constructed, maintained, or accomplished, and no alteration, repainting or refurbishing of the exterior of any Living Unit shall be performed, unless complete plans and specifications therefor have first been submitted to and approved by the Architectural Control Committee. No planting, replanting or replacing of any plant, seedling, flower, tree, bush, shrub, grass or lawn area shall be done or undertaken on any Lot by any Owner unless first approved by the ACC.

Section 3. Standard. In deciding whether to approve or disapprove plans and specifications submitted to it, the committee shall use its best judgment to insure that all improvements, construction, landscaping, and alterations on Lots within the property conform to and harmonize with existing surroundings and structures. The Board may formulate general guidelines and procedures. The adopted guidelines and procedures shall be incorporated in the book of rules and regulations adopted by the Board and the Architectural Control Committee, or the Board, as the case may be, shall act in accordance with such guidelines and procedures.

Section 4. Approval Procedure. Any plans and specifications submitted to the committee shall be approved or disapproved by it in writing within thirty (30) days after submission. In the event the committee fails to take any action within such period, it shall be deemed to have approved the material submitted.

Section 5. Construction. Once begun, any improvements, construction, landscaping, or alterations approved by the committee shall be diligently pursued to completion. If reasonably necessary to enable such improvement, construction, landscaping or alteration, the person or persons carrying out the same shall be entitled to temporary use and occupancy of unimproved portions of the Common Area in the vicinity of the activity.

Section 6. Disclaimer of Liability. Neither the Architectural Control Committee, nor any member thereof acting in good faith, shall be liable to the Association or any Owner for any damage, loss, or prejudice suffered or claimed on account of:

- (a) The approval or rejection of, or the failure to approve or reject, any plans, drawings or specifications;
- (b) The development or manner of development of any of the Property; or
- (c) Any engineering or other defect in approved plans and specifications.

Section 7. Non-Waiver. The approval of the Architectural Control Committee of any plans and specifications for any work done or proposed shall not constitute a waiver of any right of the Architectural Control Committee to disapprove any similar plans and specifications.

Section 8. Exception for Declarant. The foregoing provisions of this Article shall not apply to any improvement, construction, landscaping, or alteration which is carried out by Declarant on any Lot or on any part of the Common Areas and which occurs at any time during the seven (7) year period following the date on which this Declaration is filed for record in the office of the County Recorder of Washington County, Utah. Declarant shall further have the right to designate the location and design of any Common Area amenities, including, but not limited to, clubhouse, pool, or other recreational amenities or green areas, provided that Declarant shall not be required to provide any such amenities by virtue of this Section.

Section 9. Declarant's Obligation. Declarant hereby covenants in favor of each Owner:

- (a) That all Living Units erected by it, or caused to be erected by it, and all improvements of the Common Area accomplished by it shall be architecturally compatible with respect to one another; and
- (b) That on or before seven (7) years from the date on which this Declaration is filed for record in the office of the County Recorder of Washington County, Utah, there shall be substantially completed and usable as part of the Common Area, all open spaces in the locations shown on the plat.

**ARTICLE VI
OPERATION AND MAINTENANCE**

Section 1. Maintenance of Common Areas, Lots and Living Units. The Common Areas, and any extension of the Living Units shall be maintained by the Association so as not to detract from the appearance of the Property and so as not to affect adversely the value or use of any Living Unit. The Owner of each Lot and Living Unit shall maintain such Lot and Living Unit in an attractive appearance, including and free from all trash, rubbish, garbage and debris.

Section 2. Operation and Maintenance by Association. The Association, by its duly delegated representative, shall provide for such maintenance and operation of the Common Areas as may be necessary or desirable to make them appropriately usable in conjunction with the Lots and to keep them clean, functional, attractive and generally in good condition and repair. The Association shall maintain, repair and restore those improvements located upon the Common Areas. Patio areas of each Living Unit may be used and decorated at the discretion of the Owner so long as the use and decoration does not adversely affect other Unit Owners or the Association. In addition, the Association shall maintain the exterior and roof of each Living Unit, excluding only mechanical systems and glass surfaces, which shall be the responsibility of Unit Owners. In the event that special needs for maintenance or repair of the Common Areas (including personal property of the Association related thereto) or the building exteriors should be necessitated through willful or negligent act of a member, his family, guests, or invitees, the cost of such maintenance shall be added to become a part of the assessment to which such Lot is subject as provided in Article IV, Section 1.

Section 3. Landscaping and Irrigation. The Association shall maintain all exterior landscaping, including all grass, shrubs, plants, trees, on and associated with the Common Area, Limited Common Areas, and Lots. The Association shall also maintain, repair, set, and regulate all irrigation and sprinkler systems and shall have access to all such systems, including sprinkler timing devices and clocks.

Section 4. Utilities. Each Lot Owner shall pay for all utility services which are separately billed or metered to individual Lots, including water, sewer, garbage, electrical and telephone service as the same may be provided by the City of St. George or other party furnishing such service. The Association shall pay for the general monthly services of Cable Television. The Board of Trustees shall determine what additional utility services, if any, shall be

included in the general utility services for which the Association will be responsible for payment as an Association debt.

Section 5. Indemnification by Declarant. The Declarant, by this instrument and recording of the same, agrees to indemnify the Association against loss or damage arising or accruing on the Common Areas as a result of the construction activities of the Declarant or its agents.

Section 6. Repair of Damage Caused by an Owner, his Tenants, Guests, Invitees and Pets. Any damage caused to the Common Area and facilities, including personal property owned by the Association, by an Owner, his tenant, guest, invitee, minor child or any animal or pet under the control of or owned by any one or a combination of the foregoing, shall create an assessable debt owed by such Owner to the Association. If the Owner does not adequately repair the damage, the Association, after approval of a majority vote of the Board of Trustees, shall have the right, through its agents, employees, or through an independent contractor, to repair the damage. The costs incurred by the Association in repairing the damage shall be added to and become an assessment against the Lot as described in Article IV, Section 1 of this Declaration, and the same may be enforced and collected as provided in Section 10 of said Article. Any repair work of damage undertaken by the Owner or agent of Owner pursuant to this Section must first submit plans to the "ACC" and obtain the approvals required as provided at Article VI herein.

Section 7. Management Agreements. The Board may employ a manager or other persons who may contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association. Any contract with a person or firm appointed as a manager or managing agent shall be terminable by the Association for cause upon thirty (30) days written notice thereof. Any such contract, and any other contract with a third person wherein the third person is to furnish goods or services for any Common Area or the Association, shall be limited to a duration of one (1) year; provided, however, that such contracts may be renewable for successive one (1) year periods with the approval, for each such period, by a vote or written consent of a majority of the Board of Trustees.

Section 8. Rules and Regulations. The Association shall have authority to promulgate and enforce such reasonable rules, regulations and procedures as may be necessary or desirable to aid the Association in carrying out any of its functions or to ensure that the Property and the Common Area is maintained and used in a manner consistent with the

interests of the Owners. The Association also has authority to adopt a schedule of monetary fines that may be imposed on Owners for the willful violation of rules that have been duly adopted and published by the Association, provided that such fines in all cases shall be reasonable and shall be subject to review and hearing by the Board if contested. Any such fine imposed and not contested, or any such fine upheld after review and hearing by the Board shall be payable within thirty (30) days. Unpaid fines may be assessed against a Lot and collected as provided in Article IV. Reasonable rules may include, but shall not be limited to, rules to allocate the fair use of all amenities between children, adolescents and adults. The Board of Trustees shall have, in exercising its reasonable discretion, the power to protect Association property by restricting use of the pool and hot tub and other common facilities in such a manner as to reduce the risk of personal harm to users, which risk management may also relate to obtaining lower insurance premiums.

ARTICLE VII INSURANCE

Section 1. INSURANCE ON LOTS AND HOMES. THE ASSOCIATION SHALL HAVE NO DUTY OR RESPONSIBILITY TO PROCURE OR MAINTAIN ANY FIRE, LIABILITY, FLOOD, EARTHQUAKE OR SIMILAR CASUALTY COVERAGE FOR A LOT OR HOME, OR FOR THE CONTENTS OF ANY HOME. THE ASSOCIATION ALSO SHALL HAVE NO DUTY TO INSURE AGAINST ANY NEGLIGENT ACTS OR EVENTS OCCURRING AT OR ON A LOT OR IN A HOME.

Section 2. Assessments. Funds for insurance to be maintained by the Association shall be provided for from annual assessments as allowed in Article IV.

Section 3. Required Insurances. The Association shall secure and at all times maintain the following insurance coverages:

- (a) **Multi-Peril Coverage.** A multi-peril type policy covering the Common Areas and facilities. Such policy shall provide coverage against loss or damage by the standard extended coverage endorsement, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, fire, earthquake, hailstorm, water damage, and such other risks as customarily are covered with respect to projects similar to this Project in its construction, location, and use. As a minimum, such policy shall provide coverage on a replacement cost basis in an amount not less than that necessary to comply with any co-insurance percentage specified in the policy, but not less than 100% of the full insurable value (based upon

replacement cost). Such policy shall include an "agreed amount endorsement" or its equivalent, a "demolition endorsement" or its equivalent, an "increased cost of construction endorsement" or its equivalent, and a "contingent liability from operation of building laws endorsement" or its equivalent.

- (b) **Broad-Form Public Liability Coverage.** A comprehensive policy insuring the Owners, the Association, its trustees, officers, agents and employees against all damage or injury caused by their negligence to the public, invitees, tenants or Owners on the Common Area. Limits of the liability under such coverage shall not be less than \$1,000,000 for all claims for personal injury or property damage, or both, arising out of a single occurrence. Such policy or policies shall be issued on a comprehensive liability basis, shall provide that cross-insurers as between themselves are not prejudiced, and shall contain "a severability of interest" clause or endorsement to preclude the insurer from denying the claim of an Owner in the development because of negligent acts of the Association or others.
- (c) **Fidelity Coverage.** A fidelity policy or policies to protect against dishonest acts on the part of a trustee(s), officer(s), manager, employee(s) of the Association and all others, including volunteers, who handle or are responsible for handling funds of the Association. The fidelity coverage shall name the Association as the obligee or insured and shall be written in an amount sufficient to offer the protection reasonably required, but in no event less than 100% of the reserves. The fidelity bond or insurance shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of employee or similar expression. Said policy shall also provide that it may not be canceled or substantially modified (including cancellation for non-payment of premiums) without at least thirty (30) days prior written notice to all first mortgagees of Lots.
- Section 3. Additional Provisions.** The following additional provisions shall apply with respect to insurance:
- (a) **Approval of Policies.** All policies shall be written by a reputable company approved by the Board of Trustees.
- (b) **Contribution.** Insurance secured and maintained by the Association shall not be brought into contribution with insurance held by the individual Owners or their mortgagees.
- (c) **Flood Insurance.** In the event that some part of the Project is now or may in the future be classified by the Housing and Urban Development as an area having special flood hazards, a blanket policy of flood

insurance on the flood areas shall be maintained in an amount customarily required in projects of this type to ensure against flood damage.

- (d) Premiums Maintained in the Name of the Association as Trustee. Premiums for all insurance coverage obtained by the Association shall be written in the name of the Association as trustee for each of the townhome Owners.
- (e) Review of Insurance Policies. The Board of Trustees shall periodically, and whenever demand is made by twenty percent (20%) or more of the Owners, review the adequacy of the Association's insurance program and shall report in writing the conclusions and actions of any mortgagee or any Lot who shall have requested a copy of such report. Copies of every policy of insurance procured by the Board of Trustees shall be available for inspection by the Owners.
- (f) Rebuilding After Damage or Destruction. In the event of damage or destruction by fire or other casualty to any Properties covered by insurance written in the name of the Association as trustee for the Owners, the Board of Trustees shall, with concurrence of the Mortgagee, if any, and upon receipt of insurance proceeds, contract to rebuild or repair such damage or destroyed portions of the Properties to as good a condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution, whose accounts are insured by a federal governmental agency, with the proviso agreed to by said bank or institution that such funds may be withdrawn only by the signatures of at least two (2) members of the Board of Trustees. The Board of Trustees shall advertise for sealed bids with any licensed contractors. The contractors shall be required to provide a full performance and payment bond for the repair, construction, or rebuilding of destroyed property. In the event the insurance proceeds are insufficient to pay all of the costs of repairing or rebuilding, or both, to the same condition as formerly, the Board of Trustees shall levy a special assessment against all Owners in such proportions as the Board of Trustees deems fair and equitable in light of the damage sustained.

ARTICLE VIII EASEMENTS

Section 1. Minor Encroachments. Each Lot and the Common Area shall be subject to an easement for encroachment created by construction, repair, shifting, settling or movement, and overhangs as designed or constructed by the Declarant. A valid easement for said encroachment and for the maintenance of same, so long as it stands, shall and does exist.

Section 2. Utilities Easement. There is hereby granted and conveyed to the City of St. George, Questar Gas Company, cable television companies, and US West Telephone Company, their successors and assigns, a blanket easement upon, across, over and under all of the Common Area, including Limited Common Areas, for ingress, egress, installation, replacing, repairing and maintaining all utilities at such location or locations as said entity deems appropriate. By virtue of this easement, it shall be expressly permissible for the providing electrical, cable television and/or telephone company to construct and maintain the necessary equipment on said property and to affix and maintain electrical, cable television and/or telephone wires, circuits and conduits on, across and under the Common Area, including Limited Common Areas.

An easement is further granted to all police, fire protection, ambulance, trash collection and all similar persons to enter upon the streets and Common Area, including Limited Common Areas, in the performance of their duties. Notwithstanding anything to the contrary contained in this Article, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said property except as (1) initially planned and approved by the Declarant, or thereafter approved by the Board of Trustees, or (2) as required by the City of St. George. Should any company furnishing a service conveyed by the general easement herein provided request a specific easement by separate recordable document, Declarant shall have the right to grant such easement on said property without conflicting with the terms hereof.

Section 3. Easements for Ingress and Egress and Landscaping Maintenance and Repair. An easement is hereby granted to the Association, its officers, agents, employees and to any management company selected by the Association to enter in or to cross over the Common Area, including Limited Common Areas, and any Lot to perform the duties of maintenance and repair of the Unit, yard and landscape area, or Common Area provided for herein. Specifically, an easement is granted to the Association, its officers, agents, employees, and to any management company selected by the Association over Lots to maintain, repair, set, and regulate irrigation and sprinkling systems, including the right and easement to allow for over spray and irrigation across Lot lines when such irrigation and sprinkler use is an efficient and practical method to allow the Association to adequately maintain the landscaping. The Declarant expressly reserves to itself, its successors and assigns, a perpetual easement and right, at their own risk, to cross the

Common Area, including Limited Common Areas, by the streets, roads, paths, or walkways established or hereafter established on said property by the Declarant, for the purpose of having access for ingress and egress to such other adjacent property upon which Declarant has or may create additional planned unit development Lots or townhomes.

**ARTICLE IX
ANNEXATION OF ADDITIONAL
PROPERTIES**

Section 1. Annexation by Declarant.

Declarant reserves the right and option to expand the Property and annex all or any part of the expandable land. (See Exhibit A hereto for the parcels comprising the expandable land.) The annexation of such land shall become effective upon the recordation in the office of the County Recorder of Washington County, Utah, of a Supplementary Declaration which (a) describes the land to be annexed or incorporated by reference within the description contained in the expandable land portion of the plat, (b) declares that the annexed land is to be held, sold, conveyed, encumbered, leased, occupied and improved as part of the Property subject to the Declaration, and (c) sets forth such additional limitations, restrictions, covenants and conditions as are applicable to the annexed land. When such annexation becomes effective, the annexed land shall become part of the Property and shall be subject to the terms of the covenants, conditions and restrictions, which terms, covenants, conditions and restrictions run with the land, of this Declaration or any supplements or amendments thereto. Such annexation may be accomplished in one or more annexations or phases without limitation as to size or location within the expandable land.

Section 2. Limitation on Annexation.

Declarant's right to annex said land to the Property shall be subject to the following limitations:

- (a) The land must be part of the land described in Exhibit A.
- (b) Any additional planned unit developments annexed hereto by the Declarant shall be comprised exclusively of residential single family dwellings, architecturally compatible to the existing Townhomes; substantially similar to the Townhomes already constructed; constructed out of similar materials. The Declarant shall have the sole discretion to develop the Common Area in said addition(s) and to include any facilities or amenities thereon that Declarant deems necessary.
- (c) Declarant's right to annex land to the Property shall

expire ten (10) years after this Declaration is filed for record in the office of the County Recorder of Washington County, Utah.

- (d) If additional planned unit developments are created by the Declarant pursuant to the terms of this Article, the Lot Owners in said addition(s) shall be members of the Association and shall have the same rights to the use and enjoyment of the Property and facilities of the Association as any other member. The Common Area in any such additional planned unit development(s) as set forth therein shall be deeded by the Declarant to the Association, free and clear of all encumbrances and liens prior to the conveyance of the first Lot on said plat and the Association must accept the deed to said Common Area.
- (e) Any Units to be added by annexation shall be architecturally compatible with Stone Cliff Townhomes, a Residential Planned Unit Development, as determined by Declarant in its sole discretion, but no assurances can be given as to the precise design, layout, site design, or materials to be used in construction, or the precise Common Area and related improvements.
- (f) Declarant shall not effectuate any annexation of land which would cause the total number of Living Units existing on or planned for the Property to exceed 500 total Lots.
- (g) Declarant reserves unto itself and its assigns the right to create Common Areas and facilities within the portion of the annexed land. No assurances can therefore be made with respect to such items.

Section 3. Supplementary Declaration. The annexation authorized under the foregoing Section shall be made by filing of record a Supplementary Declaration of Covenants, Conditions, and Restrictions or similar instrument, with respect to the additional property which shall extend the plan of this Declaration to such property.

Such Supplementary Declaration contemplated above may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added property and as are not inconsistent with the plan of this Declaration.

The recordation of such Supplementary Declaration shall constitute and effectuate the annexation of the said real property described therein, making said real property subject to this Declaration and subject to the functions, powers and jurisdiction of the Association, and thereafter all of the Owners of Lots in said real property shall automatically be members of the Association.

Section 4. Declarant's Right to Amend. Until all portions of the expandable land are included in the development, or until the right to enlarge the development through the addition of tracts or subdivisions terminates, whichever event first occurs, Declarant shall have, and is hereby vested with the right to unilaterally amend the Declaration or the plat, or both, as may be reasonable, necessary or desirable: (a) to adjust the boundaries of the Lots, including adding or deleting Common Areas (by filing an appropriate amended plat) to accommodate design changes or changes in type of Units or adjustments to Lot configuration; (b) to more accurately express the intent of any provisions of the Declaration in the light of then existing circumstances or information; (c) to better ensure, in light of existing circumstances or information, workability of the arrangement which is contemplated by the Declaration; or (d) to facilitate the practical, technical, administrative or functional integration of any additional tract or subdivision into the development.

Section 5. Expansion of Definitions. In the event the Property is expanded, the Definitions used in this Declaration automatically shall be expanded to encompass and refer to the Property as so expanded, e.g., "Property" shall mean the real property described in Article II of this Declaration, plus any additional real property added by a Supplementary Declaration or by Supplementary Declarations, and reference to this Declaration shall mean this Declaration as so supplemented.

ARTICLE X USE RESTRICTIONS

Section 1. Residential Use. No Owner shall occupy or use his Townhome, or permit the same or any part thereof to be occupied or used for any purpose other than as a private residence for the Owner and the Owner's family or the Owner's lessees or guests.

Section 2. Fee Conveyed. Each Lot shall be conveyed as a separately designated and legally described freehold estate, the Owner taking title in fee simple, subject to the terms, conditions, and provisions hereof.

Section 3. Uses Permitted by Declarant During Construction. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Declarant on the building of said Townhomes to maintain during the period of construction and sale of said Townhomes, upon such portion of the premises as Declarant deems necessary, such facilities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the construction and sale of said

Townhomes, including, but without limitation, a business office, storage area, construction yard, signs, model Townhomes and sales office, except that this provision shall not apply to Stone Cliff Townhomes, a Residential Planned Unit Development and other subsequent phases as the construction in subsequent phases is completed and the Lots therein have been sold to purchasers.

Section 4. Household Pets Permitted. No animals, livestock or poultry of any kind may be raised, bred, or kept on any Lot or in the Common Area, except that dogs, cats or other household pets may be kept in Townhomes, or upon any Lot, subject to the rules and regulations adopted by the Board of Trustees. All dogs or cats in the Common Area, including the Limited Common Areas shall be on a leash. Any damage caused by a pet of an Owner, his guest, or invitee, shall be an additional assessment upon the Lot as provided by Article VI, Section 6.

Section 5. Signs. No signs of any kind shall be displayed to the public view on or from any Lot or the Common Area except that an Owner may display a "For Sale" sign, subject to all restrictions of this provision. Each "For Sale" sign displayed shall be of a dimension, color, and print style as determined by the Association and all such signs shall be made to the exact specifications designated by the Association, including dimension, color, printed information, etc. The Association shall maintain sign specifications and an example "For Sale" sign in the office of the Association for use by members. No more than one (1) "For Sale" sign shall be displayed on any one (1) Unit at a time and the location of where the sign shall be placed on the Townhome Unit shall be determined by the Association. This restriction is applicable to all Townhomes offered for sale within the Project, whether by Owner or through a real estate broker. This provision is not applicable to the Declarant for so long as the Declarant is engaged in the development of the Stone Cliff Townhomes and selling new Townhome Units.

Section 6. Obstruction of the Common Area. There shall be no obstruction of the Common Area. Nothing shall be stored in the Common Area without the prior consent of the Board of Trustees.

Section 7. Prohibited Uses. No noxious or offensive activities shall be carried on in any Lot or in the Common Area, nor shall anything be done therein which may be or become an annoyance or nuisance to the Owners.

Section 8. Oil and Mining Operations. No drilling, quarrying or mining operations of any kind shall be permitted upon or in any Lot or upon the Common Area.

Section 9. Hazardous or Toxic Wastes. No bulk storage of hazardous materials, hazardous wastes, hazardous substances, or toxic substances or any toxin regulated by any federal or state statute or regulation may be stored upon the Property; specifically, but not by way of limitation, including garages of the Units.

Section 10. Alteration of Common Area. Nothing shall be altered or constructed, or removed from the Common Area, except with the written consent of the Board of Trustees.

Section 11. Time Sharing Prohibited. Neither the Declarant nor the Owner of any Lot shall allow or permit any form of time sharing ownership.

Section 12. Leases. Any lease agreement between a Townhome Owner and a lessee shall be required to provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, Articles of Incorporation of the Association, and the Bylaws of said Association, and that any failure by lessee to comply with the terms of such documents shall be a default under the lease. Furthermore, all leases shall be in writing and a copy of each signed lease shall be left in the office of the Association by the Owner. Any damage caused by the lessee, including guests of lessee, to the Common Area and exteriors of the buildings shall be an additional assessment upon the Lot as provided by Article VI, Section 5.

Section 13. Recreational Vehicles. No recreational vehicle may be parked within the Common Areas or upon the driveways of each Unit for longer than a forty-eight (48) hour period. In no event shall any recreational vehicle be used for camping or for overnight accommodations by the Lot Owner or by the Lot Owner's guests in and on the Common Area of the development or on the driveways of the Units, except on that property specially designated by the Board for this purpose. The Board of Trustees is specifically empowered to enforce this provision by having vehicles in violation towed and stored at the Owner's expense.

Section 14. Landscaping. No modification to the Landscaping maintained by the Association shall be allowed or permitted to remain on any Lot, except as specifically allowed and permitted by the Landscaping Design rules and regulations adopted by the Board of Trustees and the ACC.

Section 15. Walls and Fences. No walls, fences, privacy fences, or privacy screens, whether permanent or temporary, other than those originally constructed by Declarant shall be erected, constructed, placed or permitted to remain on any Lot without approval of the ACC.

Section 16. Swimming Pools and Hot Tubs. No above-ground or ground level swimming pools, lap pools, therapy pools, hot tubs, whirlpools, or jacuzzis shall be erected, constructed, placed or permitted to remain on any Lot.

Section 17. Electronic Antennas. No television, radio, or other electronic antenna, satellite dish or devise of any similar type shall be erected, constructed, placed or permitted to remain on a Lot, or on the exterior of any Unit or any other structure located on a Lot, unless approved in writing by the ACC.

Section 18. Common Amenities: Joint Use Agreement. Use of Common Area and amenities, such as tennis courts, swimming pools, or clubhouses, shall be shared with members of Stone Cliff Owner's Association and shall be governed by the terms of the Joint Use Agreement between the Association and Stone Cliff Owners Association, a copy of which is attached as Exhibit B.

ARTICLE XI GENERAL PROVISIONS

Section 1. Enforcement. The Association, or the Declarant or its successors in interest, or any Owner, shall have the right to sue for damages, or to enforce by any proceeding injunctive or otherwise, at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, Bylaws, or Articles of Incorporation. Specifically, the aggrieved party may seek to recover damages and for injunctive relief. Failure by the Association to enforce any covenant or restriction therein contained shall in no event be deemed a waiver of the right to do so thereafter. The prevailing party to any action brought to enforce the terms of this Declaration or any supplements or amendments thereto shall be entitled to costs and reasonable attorney fees.

Section 2. Severability, Construction and Validity of Restrictions. All of said conditions, covenants and reservations contained in this Declaration shall be construed together, but if it shall at any time be held that any one of said conditions, covenants or reservations, or any part thereof, is invalid, or for any reason becomes unenforceable, no other condition, covenant, or reservation, or any part thereof, shall be thereby affected or impaired; and the Declarant and Lot Owners, their successors, heirs or assigns shall be bound by each article, section, subsection, paragraph, sentence, clause and phrase of this Declaration irrespective of the fact that any article, section, subsection, paragraph, sentence,

clause or phrase be declared invalid or inoperative or for any reason become unenforceable.

Section 3. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representative, heirs, successors, and assigns for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years.

Section 4. Gender and Grammar. The singular wherever used in this Declaration shall be construed to mean the plural when applicable and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

Section 5. Conflicts. In case of any conflict between this Declaration, as the same may be amended from time to time, and the Articles of Incorporation and the Bylaws of the Association, as they may be amended from time to time, the provisions of this Declaration shall be controlling.

**ARTICLE XII
AMENDMENT**

Except as otherwise provided herein, this Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners, and thereafter, by an instrument signed by not less than sixty percent (60%) of the Lot Owners, which amendment shall be effective upon recordation in the Office of the Recorder of Washington County, State of Utah. Prior to any material amendment to this Declaration, written notice shall be sent to all holders of first mortgage liens, setting forth said amendment and advising them of the date that the members will vote on said amendment.

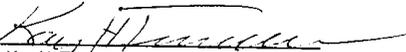
**ARTICLE XIII
INITIAL REGISTERED AGENT AND INITIAL REGISTERED OFFICE**

The address of the initial registered office of the Association shall be 750 West Ridgeview Drive, Suite 101, St. George, Utah 84770. The name of the registered agent at that address is Kay H. Traveller.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set his hand and seal the day and year first written above.

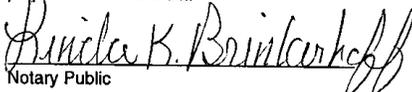
DECLARANT:

TRAVELLER/STONE CLIFF, L.C.

By: 
Kay H. Traveller
Managing Member

STATE OF UTAH,)
 : ss.
County of Washington.)

On this 17th day of September, 1998, personally appeared before me KAY H. TRAVELLER, whose identity is personally known to me or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that he is the Managing Member of Traveller/Stone Cliff, L.C., a Utah limited liability company, and that he executed the foregoing Declaration of Covenants, Conditions, and Restrictions on behalf of that limited liability company being authorized and empowered to do so by the operating agreement of Traveller/Stone Cliff, L.C., and he did duly acknowledge before me that the Company executed this document for the uses and purposes stated therein.


Notary Public

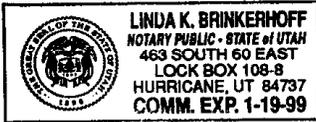


EXHIBIT A
EXPANDABLE PROPERTY

Parcel 1:

Beginning at the North 1/4 corner of Section 3, Township 43 South, Range 15 West, Salt Lake Base and Meridian and running thence South 0°44'45" East 89.96 feet along the center section line of said Section 3; thence South 89°15'15" West 24.40 feet; thence South 55°51'15" West 267.11 feet; thence South 0°44'45" East 86.40 feet; thence South 89°15'15" West 437.02 feet; thence South 0°44'45" East 338.59 feet; thence South 89°15'14" West 654.89 feet; thence South 0°52'51" East 661.18 feet to a point on the North 1/16 line of said Section 3; thence South 89°17'37" West 1328.35 feet along said 1/16 line to a point on the Easterly line of Section 4, Township 43 South, Range 15 West; thence South 89°04'08" West 1300.08 feet along the North 1/16 line of said Section 4 to the Northeast 1/16 corner of said Section 4; thence South 0°57'35" East 1300.64 feet along the East 1/16 line of said Section 4; thence South 55°45'05" West 1074.88 feet; thence South 69°03'19" West 430.11 feet; thence South 74°55'42" West 419.34 feet; thence South 85°10'14" West 679.74 feet; thence South 85°23'38" West 217.13 feet to a point on the West 1/16 line of said Section 4; thence North 0°15'51" West 896.15 feet along said West 1/16 line to a point out the center section line of said Section 4; thence North 0°57'50" West 1304.26 feet along said West 1/16 line to the Northwest 1/16 corner of said Section 4; thence South 89°02'52" West 1307.61 feet along the North 1/16 line of said Section 4 to a point on the West line of said Section 4; thence North 0°26'32" West 641.50 feet along said West line; thence North 50°22'17" East 1576.15 feet; thence North 0°49'37" West 376.83 feet; thence South 85°44'53" East 1893.13 feet; thence North 69°37'03" East 557.66 feet; thence North 54°34'45" East 282.48 feet to a point on the proposed Southerly right of way of 1450 South Street, said point being also on a curve to the right, the radius point of which bears South 3°16'43" West, 1915.00 feet distant; thence Easterly along the arc of said curve through a central angle of 8°48'36", a distance of 294.46 feet to the point of tangency; thence South 77°54'41" East 319.42 feet along said Southerly right of way to the point of an 840.00 foot radius curve to the left; thence Easterly along the arc of said curve through a central angle of 31°50'13", a distance of 466.75 feet to the point of tangency; thence North 70°15'06" East 494.82 feet along said right of way; thence South 1°43'57" East 924.32 feet to a point on the North line of said Section 3; thence North 89°13'10" East 2438.69 feet along said North line to the point of beginning.

Parcel 2:

The East 1/2 of the Southeast 1/4 of the Northeast 1/4 of Section 4, Township 43 South, Range 15 West, Salt Lake Base and Meridian.

LESS AND EXCEPTING:

BEGINNING at the Southwest corner of the East 1/2 of the Southeast 1/4 of the Northeast 1/4 of Section 4, Township 43 South, Range 15 West, Salt Lake Base and Meridian; and running thence North 0°58'48" West 500.00 feet; thence North 88°59'40" East 261.36 feet; thence South 00°58'48" East 500.00 feet to the South line of the Southeast 1/4 of the Northeast 1/4; thence South 88°59'40" West, along the 1/16th line a distance of 261.36 feet to the point of beginning.

Parcel 3:

A parcel of land situated within government Lot 5 and the Northwest quarter of the Southwest quarter of Section 4, Township 43 South, Range 15 West, Salt Lake Base and Meridian, being more particularly described as follows:

BEGINNING at the Southeast Corner of said Lot 5, said point being North 88°58'43" East 1319.50 feet along the center section line from the West 1/4 corner of said Section 4 and running thence South 0°15'51" East 896.15 feet along the 1/16 line; thence North 81°11'57" West 394.62 feet; thence North 81°16'23" West 285.78 feet; thence North 64°19'00" West 98.17 feet; thence North 52°09'37" West 161.40 feet; thence South 81°42'17" East 228.78 feet; thence South 89°44'11" East 184.52 feet; thence North 67°22'32" East 161.26 feet; thence North 47°33'14" East 146.86 feet; thence North 14°13'53" East 818.49 feet; thence North 0°26'36" West 54.15 feet; thence North 32°30'47" West 371.92 feet; thence North 70°29'48" West 98.69 feet; thence North 51°07'20" West 167.00 feet; thence North 0°57'08" West 521.72 feet to a point on the North line of said Lot 5; thence North 89°02'52" East 425.04 feet to the Northeast corner of said Lot 5; thence South 0°57'50" East 1304.26 feet to the point of beginning.

LESS AND EXCEPTING ALL OF THE FOLLOWING:

Stone Cliff Townhomes:

BEGINNING at a point which lies North 89°01'48" West 2027.83 feet along the Section line and South 1399.80 feet from the Northeast Corner of Section 4, Township 43 South, Range 15 West, Salt Lake Base and Meridian and running thence South 42°35'39" East 27.88 feet to the point of a 15.00 foot radius curve to the left; thence Southeasterly along the arc of said curve 13.21 feet to the point of a 40.00 foot radius reverse curve to the right (center bears South 03°04'22" East); thence Southeasterly along the arc of said curve 25.41 feet; thence North 33°19'46" East 20.00 feet to a point on a 60.00 foot radius curve to the right (center bears North 33°19'46" East); thence Southerly along the arc of said curve 116.02 feet; thence South 28°17'11" East 516.75 feet; thence South 75°44'23" East 75.89 feet; thence South 41°30'59" East 64.00 feet; thence South 48°29'01" West 96.15 feet; thence South 86°43'31" West 31.94 feet to a point on a 40.00 foot radius curve to the right (center bears South 79°31'49" West); thence Southwesterly along the arc of said curve 45.14 feet; thence South 35°08'34" East 24.48 feet; thence South 11°01'41" East 78.00 feet; thence South 78°58'19" West 64.00 feet; thence North 11°01'41" East 11.12 feet; thence North 59°34'25" West 123.61 feet; thence North 38°38'41" West 137.80 feet; thence North 30°25'35" East 96.45 feet to a point on a 180.00 foot radius curve to the right (center bears North 52°57'32" East); thence Northwesterly along the arc of said curve 34.00 feet; thence South 30°25'35" West 100.89 feet; thence North 38°38'41" West 55.47 feet; thence North 23°52'35" West 174.56 feet; thence North 39°53'24" West 146.73 feet; thence North 59°34'25" West 65.09 feet; thence North 02°18'28" West 161.00 feet to a point on a 650.00 foot radius curve to the left (center bears North 22°53'34" West); thence Northeasterly along the arc of said curve 243.51 feet to the point of beginning.

Stone Cliff Phase 1:

BEGINNING at a point which lies South 89°30'48" West 683.45 feet along the Section line and North 68.34 feet from the Northeast Corner of Section 4, Township 43 South, Range 15 West, Salt Lake Base and Meridian and running thence South 63°40'49" West 341.52 feet; thence South 57°14'51" West 281.32 feet; thence South 29°42'13" West 143.21 feet; thence South 20°10'03"

West 54.03 feet; thence South 25°17'48" West 266.96 feet; thence South 41°28'31" West 96.79 feet; thence South 59°17'09" West 122.92 feet; thence South 66°23'17" West 179.03 feet; thence North 69°11'53" West 188.65 feet; thence North 03°50'47" West 61.99 feet; thence North 56°04'30" West 163.03 feet; thence North 30°06'10" West 120.19 feet; thence North 14°20'23" West 731.73 feet; thence North 37°19'53" East 423.73 feet; thence North 63°30'09" East 461.86 feet; thence South 65°46'43" East 438.55 feet; thence North 12°05'19" East 302.75 feet; thence South 77°54'41" East 132.97 feet; thence North 12°05'19" East 80.00 feet; thence South 77°54'41" East 336.33 feet to the point of a 760.00 foot radius curve to the left; thence Easterly along the arc of said curve through a central angle of 31°50'13", a distance of 422.30 feet to the point of tangency; thence North 70°15'06" East 86.17 feet; thence South 19°44'54" East 80.00 feet; thence South 70°15'06" West 86.17 feet to the point of an 840.00 foot radius curve to the right; thence Westerly along the arc of said curve through a central angle of 10°48'21", a distance of 158.42 feet; thence South 21°40'33" West 708.12 feet to the point of beginning.
Contains 43.141 acres.

Stone Cliff Phase 2:

BEGINNING at a point which lies North 89°01'48" West 1232.04 feet along the Section line and South 230.69 feet from the Northeast Corner of Section 4, Township 43 South, Range 15 West, Salt Lake Base and Meridian and running thence South 51°55'31" East 204.70 feet; thence South 12°20'14" East 452.76 feet; thence South 4°43'12" East 50.00 feet to a point on a curve to the left, the radius point of which bears South 4°43'12" East 975.00 feet distant; thence Southwesterly along the arc of said curve through a central angle of 12°01'46", a distance of 204.70 feet to the point of tangency; thence South 73°15'02" West 438.17 feet to the point of a 975.00 foot radius curve to the left; thence Southwesterly along the arc of said curve through a central angle of 2°13'50", a distance of 37.96 feet to the point of tangency; thence South 71°01'12" West 36.07 feet to the point of a 485.00 foot radius curve to the left; thence Southwesterly along the arc of said curve through a central angle of 19°28'08", a distance of 164.80 feet; thence North 38°26'57" West 50.00 feet; thence North 15°34'36" West 184.58 feet; thence North 59°44'05" East 115.68 feet to a point on the Southeasterly boundary of Stone Cliff Phase 1, according to the Official Plat thereof, Records of Washington County; thence along said Southeasterly boundary the following six courses: North 67°50'41" East 179.03 feet; thence North 60°44'33" East 122.92 feet; thence North 42°55'55" East 96.79 feet; thence North 26°45'12" East 266.96 feet; thence North 21°37'27" East 54.03 feet; thence North 31°09'37" East 143.21 feet to the point of beginning.
Contains 7.753 Acres.

Stone Cliff Phase 3:

BEGINNING at a point which lies North 89°01'48" West 1835.64 feet along the Section line and South 1086.62 feet from the Northeast corner of Section 4, Township 43 South, Range 15 West, Salt Lake Base and Meridian, and running thence South 38°26'57" East 50.00 feet to a point on a 485.00 foot radius curve to the left, radius point bears South 38°26'57" East; thence southwesterly along the arc of said curve through a central angle of 21°10'57", a distance of 180.01 feet to the point of a 650.00 foot reverse radius curve; radius point bears North 59°37'54" West; thence southwesterly along the arc of said curve through a central angle of 43°39'18", a distance of 495.24 feet to the point of tangency; thence South 74°01'24" West 39.89 feet; thence South 8°28'37" East 369.51 feet; thence South 26°53'58" East 179.06 feet; thence South 9°11'11" East 205.55 feet; thence South 6°56'33" East 314.98 feet; thence South 30°19'02" East 247.38 feet; thence South 0°52'05" West 264.98 feet; thence South 57°12'29" West 250.35 feet; thence North 42°31'55" West 341.27 feet to a point on a 275.00 foot radius curve to the left, radius point bears North 42°31'55" West; thence northeasterly along the arc of said curve through a central angle of 8°35'11", a distance of 41.21 feet to a point of non-tangency; thence North 51°07'06" West 164.06

feet; thence South $82^{\circ}52'17''$ West 126.52 feet; thence North $49^{\circ}07'08''$ West 234.61 feet; thence North $1^{\circ}27'24''$ East 396.63 feet; thence North $29^{\circ}48'18''$ East 462.18 feet; thence North $50^{\circ}31'51''$ West 237.62 feet; thence North $35^{\circ}09'11''$ East 71.41 feet to the point of a 250.00 foot radius curve to the right; thence Northeasterly along the arc of said curve through a central angle of $38^{\circ}52'13''$, a distance of 169.60 feet to a point of tangency; thence North $74^{\circ}01'24''$ East 320.26 feet to the point of a 600.00 foot radius curve to the left, radius point bears North $15^{\circ}58'36''$ West; thence Northeasterly along the arc of said curve through a central angle of $43^{\circ}39'18''$, a distance of 457.15 feet to the point of a 535.00 foot reverse radius curve; radius point bears North $59^{\circ}37'54''$ West; thence Northeasterly along the arc of said curve through a central angle of $21^{\circ}10'57''$, a distance of 197.79 feet to the point of beginning. Contains 20.46 acres.

NOTE: The Basis of Bearing for the above described Parcel is State Plane Grid NAD 83 South.

Stone Cliff Phase 4:

BEGINNING at a point North $89^{\circ}01'48''$ West 514.69 feet along the Section line from the Northeast Corner of Section 4, Township 43 South, Range 15 West, Salt Lake Base and Meridian; running thence South $5^{\circ}02'28''$ West 158.76 feet; thence South $01^{\circ}46'26''$ West 685.86 feet; thence North $88^{\circ}13'34''$ West 309.81 feet to a point of a 975.00 foot radius curve to the left; thence Southwesterly along the arc of said curve 110.51 feet to a point on the Stone Cliff Phase 2 Boundary Line; thence along said boundary North $04^{\circ}43'12''$ West 50.00 feet; thence North $12^{\circ}20'14''$ West 452.76 feet; thence North $51^{\circ}55'31''$ West 204.70 feet to a corner of the Stone Cliff Phase 1 Boundary; thence along said boundary North $58^{\circ}42'15''$ East 281.32 feet; thence North $65^{\circ}08'13''$ East 341.52 feet; thence leaving said Phase 1 and running South $66^{\circ}54'56''$ East 181.53 feet to the point of beginning.