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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

PHASE II

OF THE

LONE PEAK MEADOWS SUBDIVISION

A RESIDENTIAL SUBDIVISION

IN

SALT LAKE COUNTY, UTAH

IVORY HOMES,
a Utah limited Partnership

AS DEVELOPER

WHEN RECORDED RETURN TO:

IVORY HOMES, Ltd.
970 East Woodoak Lane
Salt Lake City, Utah 84117

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR PHASE II OF
LONE PEAK MEADOWS SUBDIVISION**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for PHASE II of LONE PEAK MEADOWS SUBDIVISION, (the "Declaration") is executed by IVORY HOMES, Ltd., of 970 East Woodoak Lane, Salt Lake City, Utah 84117 (the "Developer"), with reference to the following:

RECITALS

A. Developer is the owner of Lots 201 through 252, inclusive, constituting Phase II of the LONE PEAK MEADOWS SUBDIVISION (the "Property").

B. Developer desires to provide a general plan for the development of all of the Property and for the establishment of covenants, conditions and restrictions to enhance and protect the value and attractiveness of the Property, all in accordance with the provisions of this Declaration.

COVENANTS, CONDITIONS AND RESTRICTIONS

NOW, THEREFORE, for the reasons recited above, the Developer hereby covenants, agrees and declares that the Property shall be subject to the following covenants, conditions and restrictions:

1. Definitions. The following definitions shall apply to this Declaration:

a. "Assessment" shall mean an Owner's portion of the Common Expenses or any other amount charged by the Association.

b. "Association" shall mean all of the Owners of Lots in the Subdivision acting as a group in accordance with this Declaration.

c. "Builder" shall mean an Owner, developer or contractor who obtains a construction or occupancy permit for one or more Lots.

d. "Common Area and Facilities" shall mean and refer to all common elements, including without limitation the Entry Monument and Storm Drain System within the Subdivision.

e. "Common Expense" shall mean and refer to:

- 1) All sums lawfully assessed against the Owners;
- 2) Expenses of administration, maintenance, repair or replacement of the Common Areas and Facilities;
- 3) Expenses allocated by the Association among the Owners;

4) Expenses agreed upon as common expenses by the Association; and

5) Expenses declared common expenses by this Declaration.

f. "Committee" shall mean the Management Committee.

g. "Dwelling" or "Home" shall mean the detached single family residence, place of habitation, abode or living unit constructed upon a Lot.

h. "Lot" or "Lots" shall mean the subdivided and recorded lot or lots within the Property and where the context so requires any Dwelling constructed thereon.

i. "Management Committee" shall mean the committee of three (3) Members of the Association elected or appointed to manage the Association, Common Areas and Facilities.

j. "Member of the Association" shall mean each Owner who, by virtue of accepting a deed or other document of conveyance to a Lot, is deemed and/or considered to be a shareholder in the Association.

k. "Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to any Lot in the Subdivision, excluding those having such interest merely as security for the performance of an obligation.

l. "Sub Drain System" shall mean and refer to the master storm drainage system for subsurface water within the Subdivision designed, engineered and installed by the Developer, including without limitation the design, development, landscaping, and other guidelines, standards, controls, and procedures, adopted with relation thereto, easements, utilities, pipes, gates, valves, distribution lines, manholes and the like.

m. "Subdivision" shall mean Phase II of the LONE PEAK MEADOWS SUBDIVISION.

2. Area of Application. This Declaration shall apply to all of the Property.

3. Right to Expand Application. The Developer shall have the right to expand the application of this Declaration to other property by written amendment to this Declaration duly recorded.

4. Submission and Easements. The Property is hereby submitted to the terms, covenants and conditions of, is hereby made subject to, and shall be governed and regulated by, this Declaration. In addition:

The Land is SUBJECT TO the described easements and rights of way, TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described parcel of real property.

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ALL OF THE FOREGOING IS SUBJECT TO: 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 of record which affect the above-described Subdivision 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 Plat Maps or otherwise existing; an easement for each and every common area improvement, equipment, pipes, lines, cables, wires, utility systems, or similar facilities which traverse or partially occupy the above-described Subdivision; and all easements necessary for servicing, repairing, ingress to, egress from, maintenance of, and replacement of all such common area improvements, equipment, pipes, lines, cables, wires, utility systems, and similar facilities.

5. Architectural Control. No Dwelling shall be constructed upon a Lot or structurally altered unless the following requirements are satisfied:

a. Dwelling. Only single family residential Dwellings are allowed. Height of any Dwelling shall not exceed two (2) stories above ground. Each Dwelling shall have a private garage for not less than two (2) automobiles. Exterior materials may include any combination of brick, stone, rock or maintenance-free stucco. On each Home, maintenance-free aluminum or vinyl siding will only be allowed for fascia or trim. Any detached accessory building must conform in design and materials with the primary residential Dwelling.

b. Landscaping. Landscaping on each Lot shall be the responsibility of the Lot Owner, who shall comply with the following minimum standards:

1) Landscaping shall be installed in front yards, between the front line of the house and the sidewalk on the entire width of the Lot, excluding the driveway. On corner Lots, landscaping shall be installed in all areas between the sidewalk and the side line of the house between the front property line and the rear property line which are visible from the adjacent public right-of-way. Each Lot Owner shall install and maintain a sprinkler system that is adequate to provide water to the entire Lot.

2) Landscaping shall include at least one tree and a combination of lawn, shrubs, or ground cover. Ground cover may include vegetative vines, low-spreading shrubs, or annual or perennial flowering or foliage plants. Ground cover may also be included in the landscaped area. Species, size, and placement of landscape elements shall be determined by the Lot Owner. Landscaping of all front and side yards facing a street shall be completed within 12 months after the date the initial Owner occupies a Dwelling on a Lot or closes on the acquisition of the Lot, whichever first occurs.

c. Walls, Fence and Hedges. No fence, wall, hedge, or other similar structure shall be erected in a required front yard to a height in excess of 3 feet, nor shall any such structure be erected in any side or rear yard to a height in excess of 6 feet. No fence, wall, hedge or other

similar structure shall be erected in any yard bordering a street or front yard of any adjoining Lot to a height in excess of 6 feet any nearer to any street than the minimum building setback line. Where a retaining wall protects a cut below the natural grade and is located on the line separating Lots, such retaining wall may be topped by a fence, wall or hedge or similar structure 6 feet in height. The only acceptable fencing materials are: wood, masonry, wrought iron or vinyl. **NO CHAIN LINK FENCING OF ANY KIND, INCLUDING ANY CHAIN LINK FENCING WITH VINYL SLATS, IS PERMITTED.** Walls, fences, landscaping and the like constructed or installed within a public utility or drainage easement are constructed or installed at the Owner's risk and may have to be removed, dismantled or destroyed and restored to its original condition, at said Owner's sole expense, where necessary because of the need for drainage or public utility servicing, installation, alteration or repairs by a utility company or as required by a public or private authority.

d. **Detached Accessory Buildings.** A detached accessory building may be permitted, subject to all of the covenants, conditions and restrictions imposed by this Declaration. The detached accessory building shall compliment in design and composition the Dwelling placed on the Lot and in no event shall such accessory building be permitted with a height greater than one story above ground.

e. **Prohibitions Against Soil Erosion and Runoff.** It shall be the responsibility of each Owner to direct site work relative to each Lot in such a manner as to minimize erosion and runoff. Construction shall be conducted in such a manner as to prevent the movement of earth materials or construction debris onto neighboring property or into the storm drainage system. Each Property Owner shall cause all construction to take place in a good and workmanlike fashion.

f. **Temporary Structures.** No trailer, tent, shack or other outbuilding shall be placed upon or used at any time as a temporary or permanent residence.

g. **Completion of Building and Landscaping.** When the construction of any Dwelling or other structure is begun, work thereon must be carried out diligently and completed within 24 months of the date that site excavation is commenced.

h. **Construction Activities, Clean Up, Owner Liability, Cash Deposit.** Each Owner shall be fully responsible for clean up of all construction materials, debris, and refuse resulting from construction activities undertaken with respect to such Owner's Lot. Each such Owner shall be liable for damages to curbs, gutters, drainage systems, and other common areas and to adjoining Lots resulting from his acts or the acts of contractors and work persons in performing construction activities on such Lot.

i. **Compliance with Applicable Zoning Ordinances.** All land use and buildings installed or constructed on the Property shall be in compliance with all zoning and land use ordinances and regulations of the municipalities and agencies governing the Property.

j. **Easements.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat for the Subdivision. Within these easements, no structure, planting or other materials shall be placed or permitted to remain which may

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damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the area, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each of the Lots in the Property and all improvements therein shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

6. 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.

7. Parking. No automobiles, vans, sport utility vehicles, trucks, campers, motor homes, trailers, boats, watercraft, recreational, commercial, oversized or other vehicles shall be stored on streets or in front yards. No overnight parking on the streets is permitted. Recreational, commercial, oversized or other motor vehicles may be stored on cement parking slabs in side yards so long as they are in running condition, regularly used and properly licensed.

8. Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste, which shall not be kept except in sanitary containers. All refuse containers shall be kept in sanitary condition. No refuse containers, unsightly material or objects are to be stored on any Lot in view of the general public, except on garbage pick-up days and then for a period not in excess of twenty-four (24) hours.

9. Maintenance of Common Areas and Facilities. The Association shall maintain, repair and replace, as needed, the Common Areas and Facilities; provided, however, the Developer shall manage, maintain, repair and replace the Storm Drain System at no cost to the Members of the Association for a period of two (2) years immediately following the recordation of this Declaration (the "Period of Developer's Control"). At the expiration of the Developer's Period of Control, the Developer shall deliver to the Association a written "Notice of Transfer," which shall effectively transfer control of the Storm Drain System to the Association. Thereafter, it shall be the sole and exclusive responsibility of the Association to operate, manage, maintain, repair and replace the Storm Drain System.

10. Flood Insurance. SOME LOTS WITHIN THE PROPERTY ARE OR MAY BE PARTIALLY OR COMPLETELY LOCATED WITHIN THE FEMA FLOOD PLANE OR ITS EQUIVALENT. IF A LOT IS OR COMES TO BE SITUATED IN AN AREA HAVING SPECIAL FLOOD HAZARDS AND FOR WHICH FLOOD INSURANCE HAS BEEN MADE AVAILABLE UNDER THE NATIONAL FLOOD INSURANCE PROGRAM ("NFIP"), OR ANY SUCCESSOR PROGRAM, A POLICY OF FLOOD INSURANCE SHALL BE MAINTAINED COVERING THE LOT IN AN AMOUNT DEEMED APPROPRIATE, BUT NOT LESS THAN THE LESSER OF: (1) THE MAXIMUM LIMIT OF COVERAGE AVAILABLE UNDER NFIP FOR INSURABLE PROPERTY WITHIN A DESIGNATED FLOOD HAZARD AREA; OR (2) ONE HUNDRED PERCENT (100%) OF CURRENT REPLACEMENT COST OF THE INSURABLE PROPERTY. SUCH POLICY SHALL BE IN A FORM WHICH MEETS THE CRITERIA SET FORTH IN THE MOST CURRENT GUIDELINES ON THE SUBJECT ISSUED BY THE FEDERAL INSURANCE

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ADMINISTRATOR.

11. Association. All Owners of Lots in the Subdivision, by virtue of accepting a deed or other document of conveyance or transfer thereto, shall be deemed and considered to belong to and be members of the Association. Membership in the Association is appurtenant to each Lot in the Subdivision and may not be separated or partitioned therefrom. The Association is created for the purpose of managing, maintaining, repairing and replacing the Common Areas and Facilities, including without limitation the Sub Drain System, for the benefit and well being of the Owners of Lots in the Subdivision.

12. Management Committee. The Association shall be managed by a Management Committee, which shall be formed and shall operate subject to the following:

a. Members. The Management Committee shall be comprised of three (3) Owners who shall be duly qualified, elected or appointed in the manner set forth below.

b. Composition of Committee. Each Owner shall have one (1) vote. The Developer shall have the exclusive right to appoint all of the Committee Members until the earlier of the following events, at which time control of the Management Committee (subject to the perpetual right of the Developer to appoint one (1) member of the Committee) shall be transferred by Developer to the Members of the Association (hereinafter referred to as the "Event" or "Events"):

1) Within forty-five (45) days after the date by which 100% of the Lots, upon which a Dwelling has been constructed and for which a certificate of permanent occupancy has been issued, have been sold or rented; or

2) At such time as the Developer elects in writing to transfer management and control of the Association.

The initial members of the Committee shall be Clark D. Ivory, Christopher P. Gamvroulas and David P. Zollinger. Anything to the contrary notwithstanding, one person designated by the Developer shall always remain a member of the Committee if Developer so desires.

c. Voting Restrictions. The following additional restrictions apply to voting on Association issues, including but not limited to the election of Committee Members:

1) Subject To Assessment. No vote shall be cast or counted for any Lot not subject to assessment.

2) Multiple Owners. When more than one person or entity owns or holds an ownership 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 Association prior to any meeting. In the absence of such advice, the vote of the Lot shall be suspended in the event more than one person or entity seeks to exercise it.

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3) Lease. Any Owner of a Lot who has leased his Dwelling 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 Association prior to any meeting.

d. Terms. Committee Members shall be elected or appointed to serve 2 year terms.

e. Qualify. To qualify to serve on the Committee, a person must either be appointed by the Developer or, in the alternative, be an individual Member of the Association or the legal representative of an organizational Member of the Association in good standing.

f. Vacancies. Any vacant seat on the Committee shall be filled with an Member of the Association duly qualified, elected or appointed; provided, however, the vacancy of a seat held by a person appointed by the Developer shall be filled by a person appointed by the Developer.

g. Dismissal. Any Committee member who fails on 3 successive occasions to attend Committee meetings (whether regular or special) or who has failed to attend at least 25% of all Committee meetings (whether regular or special) held during any 12 month period shall automatically forfeit his seat.

h. Removal of a Member of the Committee. Except for Committee Members appointed by the Developer prior to the occurrence of the Events, Committee Members may be removed at any time by the affirmative vote of at least a majority of the Members of the Association.

i. Replacement. Committee Members dismissed in the manner set forth in subsection (g) above or who resign, shall be replaced by an Owner selected by the remaining Members of the Committee. A member of the Committee removed by the affirmative majority vote of the Members of the Association shall be replaced by the majority vote of those Members of the Association present in person or by proxy at a special meeting called for that purpose. Anything to the contrary notwithstanding, the Developer shall be entitled to replace all Members of the Committee appointed by it.

j. Completion of Term. Unless he forfeits or otherwise loses his seat as herein provided, a Member shall serve on the Committee until his successor qualifies and is properly elected by the Members of the Association or appointed by the Developer.

k. No Compensation. Committee members shall not be compensated for their services but shall be reimbursed for all expenses reasonably incurred in connection with Committee business and approved by the Committee.

13. Committee Officers and Agents. The Committee shall perform its functions through those Members who are elected as officers by the Committee and through such agents or employees as the Committee may appoint. Any Committee officer, agent, or employee may at any time be removed, with or without cause, by the vote of a majority of the Committee Members although he

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shall continue to be Member at large of the Committee. One Member may hold more than one office except that of President and Secretary. The officers of the Committee, and their respective powers and functions, shall be as follows:

a. President. The President shall be the chief executive of the Committee and shall exercise general supervision over the Common Area and Facilities, including without limitation the Sub Drain System, and other affairs of the Association. The President shall preside over all meetings of both the Committee and the Association. The President shall execute all instruments on behalf of the Committee, unless s/he chooses to delegate that authority to another Committee member.

b. Vice-President. The Vice-President shall have all the powers of the President in the event of the latter's absence or inability to act.

c. Secretary. The Secretary shall keep minutes of meetings of the Committee and the Association and all other books and records which are required or made necessary.

d. Treasurer. The Treasurer shall have custody and control of the funds available to the Committee. The Treasurer shall cause to be prepared an annual financial statement for each fiscal year of Project operation. The offices of Secretary and Treasurer may be held by the same Committee member.

14. Committee Meetings. A regular meeting of the Committee shall be held immediately after the adjournment of each annual Association meeting or at such other time as the members of the Committee may decide. Other regular meetings shall be held at periodic intervals at such time and place as the Committee may determine, but no less than one time per year. No notice need be given of regular Committee meetings. Special Committee meetings shall be held whenever called by the President or by any two (2) members of the Committee. Written notice of all special meetings shall be delivered to each Committee Member at least twenty-four (24) hours before the time fixed for the meeting. The propriety of holding any meeting which is attended by all Committee Members may not be challenged on grounds of inadequate notice. A quorum for the transaction of business at any Committee meeting shall consist of a majority of all the Committee Members then in office.

15. Status and General Authority of Committee. Any instrument executed by the Management Committee that recites facts which, if true, would establish the Committee's 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. The Association shall constitute a legal entity capable of dealing in its own name or in the name of the Committee. The Management Committee shall have, and is hereby granted, the following authority and powers:

a. Access and Entry. The right of entry and access, including without limitation the power and authority to enter into or upon any Lot to make repairs and to do other work necessary for the proper maintenance and operation of the Common Areas and Facilities, including without limitation the Sub Drain System, manholes and pipes. Except in the case of an emergency, residents

shall be given at least twenty-four (24) hours prior written notice before the Committee or its representative shall exercise this power. In an emergency, subsequent notice shall be provided indicating the date, time, purpose of entry, name(s) and title(s) of person(s) entering.

b. Grant Easements. The authority, without the vote or consent 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 Subdivision as reasonably necessary or useful for the proper maintenance, operation or regulation of the Common Areas and Facilities, including without limitation the Storm Drain System.

c. Execute Documents. The authority to execute and record, on behalf of all Members of the Association, any amendment to this Agreement which has been approved by the vote or consent necessary to authorize such amendment.

d. Standing. The power to sue and be sued.

e. Enter Into Contracts. The authority to enter into contracts which in any way concern the Association or the Common Areas and Facilities, including without limitation the Sub Drain System.

f. Promulgate Rules. The authority to promulgate such reasonable rules and regulations as may be necessary or desirable to aid the Committee in carrying out any of its functions or to insure that the Common Areas and Facilities, including without limitation the Storm Drain System, is maintained and used in a manner consistent with its original design and construction.

g. Delegation of Authority. The power and authority to delegate its duties, in whole or in part, to a manager or management company.

h. All other Acts. The power and authority to perform any and all other acts, and to enter into any other transactions which may be reasonably necessary for the Management Committee to perform its functions for and in behalf of the Members of the Association.

16. Association Meetings. The Members of the Association shall meet as follows:

a. Annual Meeting. The annual meeting of the Members of the Association shall be held at 7:00 o'clock p.m. on the first Monday in February of each year unless otherwise determined by the Committee. Whenever such day is a legal holiday, the meeting shall occur on the first business day thereafter. At least 10 but not more than 30 days before the date of the annual meeting, a written notice thereof shall be delivered in person or mailed by regular U.S. Mail, postage prepaid, to each person who appears as an Member of the Association at his last known address as shown on the books and records of the Association. The notice shall state the day, date, time, place, and general purpose of the meeting. No meetings shall be necessary until transfer of Homeowners Association to Homeowners, unless otherwise called.

b. Special Meetings. Special meetings of the Association may be called at any time by the Committee or by Members of the Association who collectively hold at least thirty percent (30%) of the total vote. Such meeting shall be held at such place as the Committee may specify and the notice thereof, which must be sent by the Committee, shall state the day, date, time, place and matters to be considered at the meeting. No items other than those expressly set forth in the notice may be addressed at the special meeting.

c. Waiver of Notice. No notice of any Association meeting shall be required if a waiver of such notice is signed by all of the Members of the Association. Whenever all of the Members of the Association meet in person or by proxy such meeting may not be challenged on grounds of inadequate notice.

d. Quorum. The presence of a majority of the Members of the Association entitled to cast a vote shall constitute a quorum for the transaction of business at any Association meeting.

(1) Quorum Not Present. If a quorum is not present at any Association meeting, whether regular or special, the meeting may be adjourned and rescheduled for a time no earlier than 48 hours and no later than 30 days, after the time set for the original meeting.

(2) Quorum at Rescheduled Meeting. Those Members of the Association present at the rescheduled meeting shall constitute a quorum.

(3) Percentage Approval Requirement. Anything to the contrary notwithstanding, in any instance in which this Declaration requires the affirmative vote of a certain number of Members of the Association for authorization or approval of a matter, their written consent, in person or by proxy, is required for authorization or approval of the item, regardless of the quorum requirements.

17. Common Profits, Expenses and Voting Rights. The common profits of the Association shall be distributed among, the Common Expenses shall be charged and the voting rights shall be allocated to the Members of the Association equally. Each Member of the Association, upon receipt of a deed or other document of conveyance or transfer to a Lot, agrees to and shall pay his portion of the Common Expenses or any other Assessment levied against him or his Lot, including any fines resulting from a violation of the Declaration or any rule or regulation, by the Committee.

a. Developer. Anything to the contrary notwithstanding, the Developer shall not be obligated to pay Assessments on any Lots owned by it until such time as the occurrence of the earlier of the following:

1) The physical Dwelling structure on the Lot has been substantially completed, a certificates of permanent occupancy has been issued and the Lot has been sold or rented; or

2) Developer elects in writing to pay the Assessments.

b. Purpose of Common Expenses. The Assessments provided for herein shall be used for the general purpose of managing, operating, maintaining, repairing and replacing the Common Areas and Facilities, including without limitation the Sub Drain System, and managing the Association.

c. Budget. At least thirty (30) days prior to the annual Association meeting, the Committee shall prepare and deliver to the Members of the Association a proposed Budget which:

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.

2) Basis. Shall be based upon advance estimates of cash requirements by the Committee to provide for the payment of all estimated expenses growing out of or connected with the operation, maintenance, repair and replacement of the Common Areas and Facilities, including without limitation the Storm Drain System, and the management of the Association.

d. Approval of Budget and Assessments. The proposed Budget and the Assessments shall become effective unless disapproved at the annual Association meeting by the affirmative vote of a majority of the Members of the Association. Notwithstanding the foregoing, however, if the Members of the Association disapprove the proposed Budget and Assessments or the Committee fails for any reason to establish the Budget and Assessments for the succeeding year, then and until such time as a new Budget and Assessment schedule shall have been established, the Budget and Assessment schedule in effect for the then current year shall continue for the succeeding year.

e. Method of Payment of Assessments. The Committee has the sole authority and discretion to determine how and when any Assessment is to be paid.

f. Personal Obligation of Member of the Association. Each Member of the Association is personally liable to pay all any Assessment levied by the Committee against him or his Lot; provided, however, no first mortgagee or beneficiary under a first deed of trust 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.

g. 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 Committee may from time to time effect an equitable change in the amount of said payments, but without the prior approval of a majority of the Members of the Association the increase may not be greater than 25% of the Assessment in any calendar year. Members of the Association shall be given at least 30 days prior written notice of any increase in the amount of the Assessment.

h. Reserve Account. The Committee may in its sole discretion elect to establish and maintain a reserve account to pay for unexpected operating expenses and capital improvements.

i. Statement of Common Area Assessments Due. Upon written request, the

Committee shall furnish to any Member of the Association a statement of Assessments due, if any, on his Lot. Failure to provide the certificate within 10 days after a written request, shall be deemed conclusive evidence that all Assessments are paid current. The Committee may require the advance payment of a processing charge not to exceed \$15.00 for the issuance of such certificate.

j. Superiority of Common Area Assessments. All Assessments and liens created to secure the obligation to pay an Member of the Association's share of the Common Expenses are superior to any homestead exemptions to which an Member of the Association may be entitled, which exemptions an Member of the Association, by accepting a deed or other document of conveyance or transfer to a Lot, expressly subordinates or waives.

k. Suspension of Right to Vote for Non-Payment. At the discretion of the Committee, the right of an Member of the Association to vote on issues concerning the Association may be suspended if the Member of the Association is delinquent in the payment of his Assessments and has failed within 10 days after delivery of written notice of the default to cure or make satisfactory arrangements to cure the default..

18. Special Assessments. The Committee, with the affirmative consent or approval of at least a majority of the Members of the Association, may levy a Special Assessment to pay for unanticipated expenses, an operation's budget shortfall or any capital improvement.

19. Individual Assessments. The Committee may fine Members of the Association and residents for the failure to comply with the Declaration or any rules and regulations adopted from time to time. In addition, individual assessments may be levied by the Committee against a Lot or its Member of the Association to compensate or reimburse the Association for:

- a. costs incurred in enforcing or construing the Declaration;
- b. costs associated with the maintenance, repair or replacement of any portion of the Storm Drain System, common elements, areas and facilities, and Entry Monuments, damaged by an Member of the Association or resident;
- c. any other charge, fee or expense designated by the Committee as an individual assessment; and
- d. attorney's fees, late fees, default interest and collection costs.

Provided, however, no fine or individual assessment shall be final until after the Member of the Association or resident shall have received written notice thereof and a reasonable opportunity to be heard. The decision of the Committee shall be final and conclusive.

20. Collections. It is important that all Members of the Association pay their portion of the Common Expenses and Assessments levied against them or their Lots in a timely manner. Assessments and fines shall be collected as follows:

a. Apportionment. The amount of Common Expenses assessed against each Lot is a debt of the Member of the Association at the time the Assessment is made and is collectible as such. Suit to recover a money judgment for unpaid Common Expenses is maintainable without foreclosing or waiving the lien securing it. If any Member of the Association fails or refuses to make any payment of the Common Expenses when due, that amount constitutes a lien on the interest of the Member of the Association in the Subdivision, and upon the recording of notice of lien, it is a lien upon the Member of the Association's interest in the Subdivision 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 unit or special improvement district; and

2) encumbrances on the interest of the Member of the Association recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

b. Late Fees and Default Interest. A late fee in the amount of \$25.00 or 5% of the delinquent amount, whichever is greater, shall be assessed on payments received more than 10 days after their due date. Simple default interest at the rate of 1.5% per month shall accrue on all delinquent accounts.

c. Foreclosure of Lien and/or Personal Judgment. The Committee may elect to institute a lawsuit, foreclose the lien or both in order to collect past due obligations.

d. No Waiver. No Member of the Association may waive or otherwise exempt himself or herself from liability for his portion of the Common Expenses or the payment of any Assessment or fine provided for herein by the abandonment of his Lot.

e. Duty to Pay Independent. No reduction or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Committee to take some action or perform some function required to be taken or performed by the Association or Committee under this Declaration, or for inconvenience or discomfort arising from the operation, maintenance, repair or replacement of the Storm Drain System, common elements, areas and facilities, and Entry Monuments or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, since the obligation to pay Common Expenses and Assessments is a separate and independent covenant on the part of each Member of the Association.

f. Foreclosure of Lien as Mortgage or Trust Deed. The lien for nonpayment of Assessments may be enforced by sale or foreclosure of the Member of the Association's interest in the Subdivision. 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 Member of the Association shall pay the costs and expenses of such proceedings, including but not limited to the cost of recording notice of lien, certified mailings or personal service, foreclosure report, reasonable attorney's and trustee's fees, and a reasonable rental for the Dwelling during the

pendency of the foreclosure action. The Association 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 Committee may bid for the Lot at foreclosure or other sale and hold, lease, mortgage, or convey the same.

g. Appointment of Trustee. If the Committee elects to foreclose the lien in the same manner as foreclosures in deeds of trust, then the Member of the Association by accepting a deed or other document of conveyance or transfer to the Lot hereby irrevocably appoints the attorney of the Association, provided 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, each Member of the Association hereby transfers in trust to said Trustee all of his right, title and interest in and to Subdivision property for the purpose of securing his performance of the obligations set forth herein.

h. Attorney in Fact. Each Member of the Association by accepting a deed or other document of conveyance or transfer to a Lot hereby irrevocably appoints the Association as his attorney in fact to collect rent from any person renting his Dwelling, if the Dwelling is rented and Member of the Association is delinquent in the payment of his portion of the Common Expenses or any Assessment or fine. Rent due shall be paid directly to the Association, upon written demand, until such time as the Member of the Association is current on his obligations to the Association. The Member of the Association shall credit his renter, against rent due, an amount equal to the amount of money paid by the renter to the Association.

21. Insurance. If reasonably available, the Committee shall purchase and maintain adequate insurance coverage on the Common Areas and Facilities, including without limitation the Sub Drain System, Management Committee, Members of the Management Committee, Manager and/or the Association, including but not limited public liability insurance, property insurance, directors and officers coverage, and a fidelity bond.

22. 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 term "shall" is mandatory and the term "may" is permissive, the whole shall include any part thereof, and any gender shall include both other genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.

23. Covenants to Run with Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land described in the Recital section, owned by the undersigned, or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of Association, all other signatories hereto, all parties who hereafter acquire any interest in a Lot, the Subdivision or the Property, and their respective grantees, transferees, heirs, devisees, personal representative, successors, and assigns. Each Member of the Association 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 Project, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

24. **Enforcement and Right to Recover Attorney's Fees.** Should the Association, Committee or an aggrieved Member of the Association be required to take action to enforce or construe the Declaration or any rules and regulations adopted from time to time, or to pursue any remedy provided hereunder or by applicable law, including a claim for injunctive relief or damages, whether such remedy is pursued by filing suit or otherwise, the non-defaulting party shall be entitled to recover his reasonable attorney's fees, costs and expenses which may arise or accrue.


25. **Limitation of Liability.** The protective covenants, conditions and restrictions set forth in this Declaration, together with any rules and regulations adopted by the Committee, are established for the benefit of the Subdivision and the Members of the Association. Any damage, loss, claim or liability which might arise due to any decision, act, or failure to act of Developer or the Committee or any of its members shall be exempt from any civil claim or action, including negligence, brought by any person owning or having an interest in any Lot. The Committee and its members shall be indemnified, saved and held harmless from any such action or failure to act, and exempt from any civil claim or action resulting from any act or failure to act (whether intended or implied) while functioning as a member of the Committee, or for decisions that they may render during the course of their service, unless said party is guilty of gross negligence.

26. **Amendments.** This Declaration may be amended upon the affirmative written approval of at least a majority of the Members of the Association of the Lots and shall be valid immediately upon recording of the document amending the Declaration in the office of the County Recorder of Salt Lake County, Utah; provided, however, so long as the Developer shall own at least one (1) Lot in the Subdivision, no amendment shall be valid or enforceable without its prior written consent.

27. **Duration.** The covenants and restrictions of this Declaration shall endure for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years.

IN WITNESS WHEREOF, Declarant has executed this instrument the 19 day of April, 2000.

DECLARANT:
IVORY HOMES, Ltd.
VALUE, L.C.
Its General Partner

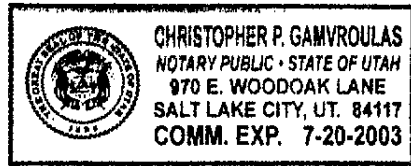
By: 
Name: Clark D. Ivory
Title: Managing Member

BK8401PG6433

STATE OF UTAH)
)ss:
COUNTY OF SALT LAKE)

On the 19TH day of April, 2000, personally appeared before me
CLARK D. IVORY, who by me being duly sworn, did say
that he is the Manager of VALUE, L.C., the General Partner of IVORY HOMES, Ltd.,
and that the within and foregoing instrument was signed in behalf of said limited
partnership pursuant to its Partnership Agreement, and said CLARK D. IVORY
further acknowledged to me that IVORY HOMES, Ltd., executed the same.

Christopher P. Gamvoulas
Notary Public
Residing at: SLC, UT



8K84401PG6434

EXHIBIT "A"
LEGAL DESCRIPTION

The Land referred to in the foregoing document is located in Salt Lake County, Utah and is described more particularly as follows:

BEGINNING AT THE NORTH QUARTER CORNER OF SECTION 6, TOWNSHIP 4 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE NORTH, 305.19 FEET; THENCE S85°00'00"E, 1420.68 FEET; THENCE S5°00'00"W, 1201.713 FEET; THENCE N84°27'10"W, 483.82 FEET; THENCE N5°32'50"E, 198.00 FEET; THENCE N84°25'59"W, 219.19 FEET; THENCE N79°54'55"W, 108.41 FEET; THENCE N84°04'07"W, 106.61 FEET; THENCE N84°31'16"W, 104.46 FEET; THENCE N84°38'48"W, 109.01 FEET; THENCE N84°32'06"W, 58.28 FEET; THENCE S5°32'50"W, 242.30 FEET; THENCE N84°44'00"W, 123.61 FEET TO THE QUARTER SECTION LINE; THENCE N0°00'33"W, 924.79 FEET ALONG THE QUARTER SECTION LINE TO THE POINT OF BEGINNING.

LESS AND EXCEPTING ALL OF LOT "A".

RXLP LONE PEAK MDWS 2

B FLG	BLK/BLDG	IND FLG	LOT/QUAR	BLK, LOT-QUAR PARCEL NUMBER	OBSOLETE?
		L	A	34-06-201-043-0000	NO
		L	1	34-06-201-042-0000	NO
		L	2	34-06-201-041-0000	NO
		L	3	34-06-201-040-0000	NO
		L	4	34-06-201-039-0000	NO
		L	5	34-06-201-038-0000	NO
		L	6	34-06-201-037-0000	NO
		L	7	34-06-201-036-0000	NO
		L	8	34-06-201-035-0000	NO
		L	9	34-06-201-034-0000	NO
		L	10	34-06-201-033-0000	NO
		L	11	34-06-201-032-0000	NO
		L	12	34-06-201-031-0000	NO
		L	13	34-06-201-030-0000	NO
		L	14	34-06-201-029-0000	NO
		L	15	34-06-201-028-0000	NO
		L	16	34-06-201-027-0000	NO
		L	17	34-06-201-026-0000	NO
		L	18	34-06-201-025-0000	NO
		L	19	34-06-201-024-0000	NO
		L	20	34-06-201-023-0000	NO
		L	21	34-06-204-001-0000	NO
		L	22	34-06-204-002-0000	NO
		L	23	34-06-204-003-0000	NO
		L	24	34-06-204-004-0000	NO
		L	25	34-06-204-009-0000	NO
		L	26	34-06-204-010-0000	NO
		L	27	34-06-204-011-0000	NO
		L	28	34-06-204-015-0000	NO
		L	29	34-06-204-014-0000	NO
		L	30	34-06-204-013-0000	NO
		L	31	34-06-204-012-0000	NO
		L	32	34-06-204-008-0000	NO
		L	33	34-06-204-007-0000	NO
		L	34	34-06-204-006-0000	NO
		L	35	34-06-204-005-0000	NO
		L	36	28-31-451-002-0000	NO
		L	37	28-31-451-003-0000	NO
		L	38	28-31-451-004-0000	NO
		L	39	28-31-451-005-0000	NO
		L	40	28-31-451-006-0000	NO
		L	41	28-31-451-007-0000	NO
		L	42	28-31-451-008-0000	NO
		L	43	28-31-451-010-0000	NO
		L	44	28-31-451-011-0000	NO
		L	45	28-31-451-012-0000	NO
		L	46	28-31-451-013-0000	NO
		L	47	34-06-203-001-0000	NO
		L	48	34-06-203-002-0000	NO
		L	49	34-06-203-005-0000	NO
		L	50	34-06-203-004-0000	NO
		L	51	34-06-203-003-0000	NO
		L	52	28-31-451-014-0000	NO
		L	AREA	28-31-451-001-0000	NO
		L	WALK	28-31-451-009-0000	NO

-FOOT COPY.
CU. RECORDER

BK 8401 PG 6436