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DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
CANYON OAKS SUBDIVISION  
DRAPER CITY, UTAH

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DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR CANYON OAKS SUBDIVISION

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CANYON OAKS SUBDIVISION is dated as of the 1<sup>st</sup> day of October, 2002, by CANYON OAKS DEVELOPERS, LLC, a Utah limited liability company (the "Declarant").

Recitals:

A. Declarant is the Owner of certain real property located in Salt Lake County, Utah, more particularly described on Exhibit A to this Declaration, which real property shall be the initial Covered Property under this Declaration. Declarant has recorded a subdivision plat (the "Subdivision Plat") of the real property described in Exhibit "A", which plat subdivided said real property as indicated thereon and is entitled "CANYON OAKS SUBDIVISION PHASE 1". The Subdivision Plat was recorded as Entry No. 8112218, in Book 2002P at Page 10 on January 7, 2002, in the office of the Salt Lake County Recorder. Declarant may acquire certain real property that is adjacent to the Covered Property and may, from time to time by recorded instrument, annex such additional property to this Declaration, in which case the additional property shall become a part of the "Covered Property". This Declaration is being imposed upon the Covered Property.

B. Declarant intends to develop a residential subdivision on the Covered Property. Declarant will develop and convey all of the lots within the Covered Property subject to a general plan of development, and subject to certain protective covenants, conditions and restrictions all as set forth in this Declaration, and which are deemed to be covenants running with the land mutually burdening and benefiting each of such lots.

NOW THEREFORE, Declarant declares as follows:

DECLARANT HEREBY DECLARES that all of lots within the Covered Property shall be held, sold, conveyed, encumbered, leased, used, occupied and improved subject to the protective covenants, conditions, restrictions and equitable servitude set forth in this Declaration. It is the intention of the Declarant in imposing these covenants, conditions and restrictions to create a general plan of development, to protect and enhance the property values and aesthetic values of the Covered Property. The covenants, conditions and restrictions contained herein are intended to, and shall in all cases run with the title of the land, and be binding upon the successors, assigns, heirs, and any other person holding any ownership or possessory interest in the Covered Property, and shall inure to the benefit of all other lots in the Covered Property.

The covenants, conditions, and restrictions shall be binding upon the Declarant as well as its successors in interest, and may be enforced by the Declarant or by any Owner, as hereinafter defined. Notwithstanding the foregoing, no provisions of this Declaration shall prevent the

Declarant from doing any of the following, which shall be deemed to be among Declarant's reserved rights in addition to such rights as may be described elsewhere in this Declaration: (1) Installation and completion of the Improvements, as hereinafter defined; (2) Use of any Lot owned by the Declarant as a model home, or for the placement of a temporary construction or sales office; (3) Installation and maintenance of signs incidental to sales or construction, subject to applicable laws and ordinances; (4) Assignment of Declarant's rights under this Declaration in whole or part to one or more builders intending to construct homes on the Covered Property; and (5) Addition of additional adjacent real property as Covered Property under this Declaration.

Notwithstanding any applicable theory relating to a mortgage, deed of trust or similar instrument, the term Lot Owner, Owner, or Owners shall not mean or include the mortgagee or beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

#### ARTICLE I DEFINITIONS

Unless the context clearly requires otherwise, the following terms used in this Declaration shall have the following meanings:

"Association" shall mean and refer to Canyon Oaks Owners Association, a nonprofit corporation, incorporated under the laws of the State of Utah, its successors and assigns.

"Association Rules" shall mean rules adopted by the Association pursuant to the Article hereof entitled "Duties and Powers of the Association."

"Board" shall mean the Board of Directors of the Association.

"City" shall mean Draper City and its appropriate departments, officials and boards.

"Committee" shall mean the architectural review committee created under Article III of this Declaration.

"Common Areas" shall mean all real property and the improvements thereon, including, without limitation, the Private Road and any easements, open space, slopes, storm drainage systems and private utilities, shown on the Plat for the common use and enjoyment of the Members.

"Common Expenses" shall mean and refer to the actual and estimated costs of:

(a) maintenance, management, operation, repair and replacement of the Common Areas, and all other areas on the Covered Property which are maintained by the Association;

- (b) unpaid Special, Reconstruction and Capital Improvement Assessments;
- (c) costs of management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees;
- (d) the costs of utilities, landscaping and other services benefiting the Owners and their Lots to the extent such services are paid for by the Association;
- (e) the costs of fire, casualty, liability, workmen's compensation and other insurance covering the Common Areas;
- (f) the costs of any other insurance obtained by the Association; and the costs of bonding of the members of the Board, any professional managing agent or any other person handling the funds of the Association;
- (g) reasonable reserves as deemed appropriate by the Board;
- (h) taxes paid by the Association;
- (i) amounts paid by the Association for discharge of any lien or encumbrance levied against the Common Areas or portions thereof;
- (j) costs incurred by the Architectural Committee or other committees of the Association; and
- (k) the costs of any other item or items designated by, or in accordance with other expenses incurred by the Association for any reason whatsoever in connection with the Common Areas, this Declaration, the Articles or the Bylaws or in furtherance of the purposes of the Association or in the discharge of any obligations imposed on the Association by this Declaration.

"Covered Property" shall have the meaning set forth in Recital "A".

"Declarant" shall mean and refer to CANYON OAKS DEVELOPERS, LLC, its successors and assigns.

"Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions, together with any subsequent amendments or additions.

"Dwelling" shall mean the single family residence built or to be built on any Lot, including the attached garage.

"Improvement" shall mean all structures and appurtenances of every type and kind, including but not limited to buildings, dwellings, garages, storage buildings, walkways, retaining walls, sprinklers, pipes, driveways, fences, landscaping, pools, decks, stairs, poles, lighting, signs, satellite dishes or other antennas, and any mechanical equipment located on the exterior of a building.

"Lot" shall mean any numbered building Lot shown on any official plat of all or a portion of the Covered Property.

"Member" shall mean and refer to every person or entity who qualifies for membership in the Association pursuant this Declaration.

"Owner" shall mean the person or persons having title to any Lot. Owner shall mean the person holding fee simple title, including the Declarant, and buyers under any contract for deed, but shall exclude any person or entity holding title for purposes of securing performance of an obligation, including the trustee and/or beneficiary under a deed of trust or mortgagee under a mortgage.

"Plat" shall mean the Subdivision Plat, as such plat may be amended from time to time.

"Private Road" shall mean that road providing access to Lots 12 though 19, as shown on the Plat.

"Subdivision Improvements" shall mean all improvements and facilities to be installed outside of the boundaries of Lots or within easements, as identified on the Plat, including those items that are necessary to provide access and utility service to the Lots, private roads, parking strips, storm drainage systems serving individual Lots, and items required by the City as a condition of its approval of subdivision of the Covered Property.

"Trail" shall mean the trail established for pedestrian and bicycle travel located on the Covered Property between Lot 89 and Lot 90, as marked on the Plat.

## ARTICLE II RESTRICTIONS ON ALL LOTS

2.1 Zoning Regulations. The zoning and other ordinances of the City and any applicable building, fire, and health codes are in full force and effect in the Covered Property, and no Lot may be occupied or used in a manner that is in violation of any such ordinance or Code. Any right or permissive use referred to or granted herein is subject in its entirety to applicable laws and ordinances.

2.2 Business or Commercial Uses. No portion of the Covered Property may be used for any commercial, mining, or business use. Nothing in this provision is intended to prevent (a) the Declarant from using one or more Lots for purposes of a construction office or sales office

during construction of the Subdivision Improvements or until the Lots are sold, whichever occurs later, or (b) the conduct of a home occupation entirely within a Dwelling. No home occupation will be permitted which requires or encourages clients, customers, patients or others to come to a Dwelling to conduct business, or which employs any employees outside of the Owner's immediate family or household.

2.3 Restriction on Signs. No signs will be permitted on any Lot within the Covered Property, except for (a) traffic control signs placed by the City, temporary signs warning of some immediate danger, (b) signs not in excess of six square feet identifying the contractor and/or architect of any Dwelling while it is under construction, (c) signs indicating the Lot is for sale, which sign must be placed in accordance with City sign regulations and shall not exceed six square feet in size, (d) signs stating the address or the name of the owner of a Lot, subject to the consent of the Committee and (e) permanent monument signage identifying the Covered Property. Notwithstanding the foregoing, the Declarant may erect and maintain a sign at the entrance to the Covered Property for a period of no more than two years after the recordation of the last Plat within the Covered Property announcing the availability of Lots and giving sales information.

2.4 Completion Required Before Occupancy. No Dwelling may be occupied prior to its completion, final inspection and acceptance by the City, and the issuance of a certificate of occupancy by the City.

2.5 Dwelling to be Constructed First. No garage, storage unit, or other out building may be constructed prior to the construction of the Dwelling on a Lot.

2.6 Livestock, Poultry and Pets. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose and are restricted to the owner's control; provided further that no more than two such household pets of over six months of age shall be kept on any Lot. "Control" for the above purposes shall only mean on a leash or lead, within a vehicle, within the residence of the owner, or within the fenced confines on the Lot. Fierce, dangerous or vicious animals, or animals that cause a nuisance by barking or other offensive activity shall not be permitted.

2.7 Underground Utilities. All gas, electrical, telephone, television, and any other utility lines in the Covered Property are to be underground, including lines within any Lot which service Improvements within that Lot. No propane tanks or oil tanks may be installed on any Lot except for temporary heat during construction.

2.8 Service Yards. No clothes lines, service yards, or storage yards shall be permitted. Exterior mechanical equipment must be screened in a manner approved by the Committee so that it is not visible from adjoining Lots, except as provided herein.

2.9 Maintenance of Property. All Lots and the Improvements on them shall be maintained in a clean, sanitary, and attractive condition at all times. No unsightliness is

permitted on any Lot. This shall include, without limitation, the open storage of any building materials (except during construction of Improvements) open storage or parking of farm or construction equipment, boats, campers, camper shells, trailers, trucks larger than pick-up trucks (except during periods of actual loading and unloading) or inoperable motor vehicles; accumulations of lawn or tree clippings or trimmings; accumulations of construction debris or waste; household refuse or garbage except as stored in tight containers in an enclosure such as a garage; lawn or garden furniture except during the season of use; and the storage or accumulation of any other material, vehicle, or equipment on the Lot in a manner that is visible from any other Lot or any public or private street.

2.10 No Noxious or Offensive Activity. No noxious or offensive activity shall be carried out on any Lot, including the creation of loud or offensive noises or odors that detract from the reasonable enjoyment of nearby Lots.

2.11 No Hazardous Activity. No activity may be conducted on any Lot that is, or would be considered by a reasonable person to be unreasonably dangerous or hazardous, which would cause the cancellation of conventional homeowners insurance policy. This includes, without limitation, the storage of caustic, toxic, flammable, explosive or hazardous materials in excess or those reasonable and customary for household uses, the discharge of firearms, or fireworks other than legal fireworks to the extent permitted by law in connection with celebration of the 4th of July and 24th of July holidays, and setting open fires (other than properly supervised and contained barbecues).

2.12 Exterior Lighting. Any outdoor lighting shall be subject to approval by the Committee, and no outdoor lighting shall be permitted except for lighting that is designed to aim downward and limit the field of light to the confines of the Lot on which it is installed. This restriction shall not apply to street lighting maintained by the City.

2.13 Annoying Sounds. No speakers, wind-bells, wind chimes, or other noise making devices may be used or maintained on any Lot which create noise that might reasonably be expected to be unreasonably or annoyingly loud to adjoining Lots, except for security or fire alarms.

2.14 Fuel Storage. No fuel oil, gasoline, propane, or other fuel storage tanks may be installed or maintained on the property. Dwellings shall be heated with natural gas, solar, or electric heat. Propane or other such containerized fuels may be used only during construction of the Dwelling until the permanent heating system is installed and operational.

2.15 Transient Lodging Prohibited. Lots are to be used for residential housing purposes only, and shall not be rented in whole or in part for transient lodging purposes, boarding house, "bed and breakfast," or other uses for providing commercial accommodations. No lease of any Dwelling shall be for a period of less than 30 days. No Dwelling on a Lot shall be subjected to time interval ownership.

2.16 Re-Subdivision. No Lot may be re-subdivided without the consent of the Committee, and no re-subdivision of any Lot may result in the construction of any additional Dwellings within the Lot.

2.17 Recontouring. Final grade on each lot shall be completed in accordance with the finish grading and drainage plan which shall have been approved by the Committee. Any grading plan submitted to the Committee for its approval shall be completed with two-foot contour lines. No lot shall be recontoured without the prior written approval of the Committee and pursuant to the provisions of Section 2.18 hereof.

2.18 Grading & Drainage. The City requires that a grading and drainage plan be submitted, reviewed and approved prior to issuance of a building permit. No surface drainage shall be permitted to discharge onto adjoining properties. All down spouts and surface drainage from impervious surfaces must be connected to the storm drainage system serving the Covered Property or discharged onto the public improvements. The final grade and final drainage connections on each Lot will be included in the Landscape completion and bonding requirements of Section 9.7 hereof. Owners will maintain the drainage connections in order to prevent overflow onto adjacent lots.

2.19 Sewer Connection Required. All Lots are served by sanitary sewer service, and no cesspools, septic tanks, or other types of waste disposal systems are permitted on any Lot. All Dwellings must be connected to the sanitary sewer system.

2.20 Trash and Rubbish. All Lots (improved or unimproved) shall be kept free of rubbish, weeds, and other unsightly items, and shall be maintained in such a manner as not to detract from the residential quality of the Covered Property. Trash, rubbish, garbage or other waste shall not be kept except in covered containers. Garbage and trash receptacles shall be permitted when kept in a visually screened enclosure.

2.21 Vehicles Restricted to Roadways. No motor vehicle will be operated on the Covered Property except on improved roads and driveways. No snowmobiles or motorcycles will be operated on any Lot except for ingress and egress or while loading the equipment for lawful transport on public streets.

2.22 Parking and Storage of Vehicles. No vehicle parking shall be permitted in front or on visible side yards other than on designated driveways. The storage of any automobiles, trucks, buses, tractors, trailers, camping vehicles, boats, boat trailers, snowmobiles, mobile homes, two and three wheeled motor vehicles, or other wheeled motor vehicles shall be prohibited unless such vehicles are kept from the view of the general public. No overnight parking shall be permitted on any street within the Covered Property

2.23 Kennels. No kennel or dog run may be placed or maintained without the prior written consent of the Committee. Among other matters, the Committee may condition the granting of such consent upon integration of the kennel or dog run with the landscape design of



the Lot and the provision of screening and vegetation to reduce noise and visibility of the kennel or dog run to the neighbors and the general public. No noxious odors shall be allowed.

2.24 Trail. The Trail is for use by homeowners and others for foot or bicycle travel. Motor vehicles are prohibited from the Trail.

ARTICLE III  
MEMBERSHIP

3.1 Membership. Every Owner shall be a Member of the Association subject to the terms of this Declaration, the Articles, Bylaws and Association Rules. The terms and provisions set forth in this Declaration, which are binding upon all Owners, are not exclusive, as Owners shall, in addition, be subject to the terms and provisions of the Articles and the Bylaws of the Association to the extent the provisions thereof are not in conflict with this Declaration. Membership of Owners shall be appurtenant to and may not be separated from the interest of such Owner in any Lot. Ownership of a Lot shall be the sole qualification for membership; provided, however, a Member's voting rights or privileges in the Common Areas, or both, may be regulated as provided in this Declaration, the Bylaws or the Association Rules. Not more than one membership shall exist based upon ownership of a single Lot.

3.2 Transfer. The membership held by any Owner shall not be transferred, pledged or alienated in any way, except upon the conveyance or encumbrance of such Lot and then only to the purchaser or Mortgagee of such Lot. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. In the event an Owner should fail or refuse to transfer the membership registered in his name to the transferee of such Owner's interest in such Lot, the Association shall have the right to record the transfer upon the books of the Association.

3.3 Voting Rights. All voting rights shall be subject to the restrictions and limitations provided herein and in the Articles, Bylaws and Association Rules.

3.4 Management of the Association. From date of formation of the Association until the termination of Declarant's Appointment Right as provided below, Declarant shall have the right to appoint and remove all members of the Board and all officers of the Association, which power shall be referred to as "Appointment Right". Declarant's Appointment Right shall terminate upon the first to occur of: (i) sixty (60) days after conveyance of 75% of the Lots to Owners other than Declarant, or (ii) two (2) years after the last conveyance of a Lot by Declarant in the ordinary course of business. Declarant may voluntarily surrender the right to appoint and remove officers of the Association and members of the Board before termination of the period of Declarant's Appointment Right, but in that event Declarant may require, for the duration of the period of Declarant's Appointment Right, that specified actions of the Association or Board, as described in a recorded instrument executed by Declarant, be approved by Declarant before they become effective.

ARTICLE IV  
ASSESSMENTS

4.1 Creation of the Lien and Personal Obligation of Assessments. The Members of the Association, for each Lot owned by them, respectively, hereby covenant and agree to pay, and each Owner of any Lot by acceptance of a deed or other conveyance creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association: Regular Assessments, Special Assessments and Capital Improvement Assessments, such Assessments to be established and collected as hereinafter provided. The Assessments, together with interest thereon, late charges, attorneys' fees, and other costs of collection thereof, as hereinafter provided, 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 such interest, late charges and costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time when the Assessment fell due. The personal obligation shall not pass to the successors in title of an Owner unless expressly assumed by such successors.

4.2 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the purposes of promoting the health, safety and welfare of the Members and enhancing the quality of life and value of the Covered Property including, without limitation, the improvement and maintenance of the properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas.

4.3 Regular Assessments. The amount and time of payment of Regular Assessments shall be determined by the Board pursuant to the Articles and Bylaws after giving consideration to the current maintenance, operational, and other costs and the future needs of the Association. Not later than thirty (30) days prior to the beginning of each fiscal year of the Association, the Board shall estimate the total Common Expenses to be incurred for the forthcoming fiscal year. The Board shall then determine the amount of the Regular Assessment to be paid by each Member. Written notice of the annual Regular Assessments shall be sent to every Member. Each Member shall thereafter pay to the Association his Regular Assessment in installments as established by the Board. In the event the Board shall determine that the estimate of total charges for the current year is, or will become inadequate to meet all Common Expenses for any reason, it shall then immediately determine the approximate amount of such inadequacy and issue a supplemental estimate of the Common Expenses and determine the revised amount of Regular Assessment against each Member, and the date or dates when due.

4.4 Special Assessments. Special Assessments shall be levied by the Board against a Lot to reimburse the Association for costs incurred in bringing an Owner and his Lot into compliance with the provisions of this Declaration, together with attorneys' fees, interest and other charges related thereto as provided in this Declaration.

4.5 Capital Improvement Assessments. In addition to the Regular Assessments, the Association may levy in any calendar year, the Capital Improvement Assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or

replacement of a described capital improvement upon the Common Areas. All amounts collected as Capital Improvement Assessments may only be used for capital improvements and shall be deposited by the Board in a separate bank account to be held in trust for such purposes. Said funds shall not be commingled with any other funds of the Association and shall be deemed a contribution to the capital account of the Association by the Members.

4.6 Rate of Assessment. Regular and Capital Improvement Assessments shall be fixed at an equal amount for each Lot and may be collected at intervals selected by the Board.

4.7 Date of Commencement of Assessments. The Regular Assessments shall commence immediately following the sale of a Lot by Declarant and shall be prorated for any partial year. Capital Improvement Assessments may not be assessed against any Lot until it has been sold by Declarant. In the event the amount budgeted to meet Common Expenses for the current year proves to be excessive in light of the actual Common Expenses, the Board in its discretion may either reduce the amount of the Regular Assessment or may abate collection of Regular Assessments as it deems appropriate.

4.8 Initial Regular Assessments.

(a) The Regular Assessment as of the date of recording of this Declaration shall be One Hundred Dollars (\$100.00) per year. The Regular Assessment shall be subject to modification as provided in Section 4.3.

(b) To the extent the costs of capital improvements during any year shall exceed the sum of Ten Thousand Dollars (\$10,000.00), a Capital Improvement Assessment shall have the written assent or vote of a majority of each class of Members at a meeting duly called for this purpose, written notice of which shall be sent to all Members in accordance with the procedures from time to time established in the Bylaws for the calling of special meetings of Members. Any reserves collected by the Association for the future maintenance and repair of the Common Areas, or any portion thereof, shall not be included in determining said annual capital improvement limitation.

4.9 Reserves. The Regular Assessments shall include reasonable amounts as determined by the Board collected as reserves for the future periodic maintenance, repair or replacement of all or a portion of the Common Areas. All amounts collected as reserves, whether pursuant to the preceding sentences of this Section or otherwise, shall be deposited by the Board in a separate bank account to be held in trust for the purposes for which they are collected and are to be segregated from and not commingled with any other funds of the Association. Such reserves shall be deemed a contribution to the capital account of the Association by the Members.

4.10 Delinquency. Any Assessment provided for in this Declaration which is not paid when due shall be delinquent on said due date (the "delinquency date"). If any such Assessment is not paid within Fifteen (15) days after the delinquency date, a late charge of Fifteen Dollars (\$15.00) shall be levied and the Assessment shall bear interest from the delinquency date, at the

rate of eighteen percent (18%) per annum. The Association may, at its option, and without waiving the right to foreclose its lien against the Lot, bring an action at law against the Member personally obligated to pay the same, and/or upon compliance with the notice provisions set forth in Section 2 of this Article, to foreclose the lien against the Lot. If action is commenced, there shall be added to the amount of such Assessment the late charge, interest, the costs of preparing and filing the complaint in such action, and attorneys' fees incurred in connection with the commencement of such action and in the event a judgment is obtained, such judgment shall include said late charge, interest and a reasonable attorney's fee, together with the costs of action. Each Member vests in the Association or its assigns, the right and power to bring all actions at law or lien foreclosure against such Member or other Members for the collection of such delinquent Assessments.

4.11 Notice of Lien. No action shall be brought to foreclose said Assessment lien or to proceed under the power of sale herein provided until thirty (30) days after the date a notice of claim of lien is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of said Lot, and a copy thereof is recorded by the Association in the office of the County Recorder in Salt Lake County; said notice of claim of lien must recite a good and sufficient legal description of any such Lot, the record Owner or reputed Owner thereof, the amount claimed (which shall include interest on the unpaid Assessment at the rate of eighteen percent (18%) per annum, a late charge pursuant to this Declaration, plus reasonable attorneys' fees and expenses of collection in connection with the debt secured by said lien), and the name and address of the claimant.

4.12 Foreclosure Sale. Said Assessment lien may be enforced by sale by the Association, its attorney or any other person authorized to make the sale after failure of the Owner to make the payments specified in the notice of claim of lien within said thirty (30) day period. Any such sale provided for above is to be conducted in accordance with the provisions of the statutes of the State of Utah as said statutes may from time to time be amended, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted or provided by law. The Association, through its duly authorized agents, shall have the power to bid on the Lot, using Association funds, or funds borrowed for such purpose, at the sale, and to acquire and hold, lease, mortgage and convey the same.

4.13 Curing of Default. Upon the timely payment, or other satisfaction, of (i) all delinquent Assessments specified in the notice of claim of lien, (ii) all other Assessments which have become due and payable with respect to the Lot as to which such notice of claim of lien was recorded and (iii) interest, late charges and attorneys' fees pursuant to this Declaration and the notice of claim of lien which have accrued, officers of the Association or any other persons designated by the Board are hereby authorized to file or record, as the case may be, an appropriate release of such notice, upon payment by the defaulting Owner of a fee, to be determined by the Association, to cover the costs of preparing and filing or recording such release.

4.14 Cumulative Remedies. The Assessment Lien and the rights to foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies

which the Association and its assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid Assessments, as above provided.

ARTICLE V  
DUTIES AND POWERS OF THE ASSOCIATION

5.1 General Duties and Powers of the Association. In addition to the duties and powers enumerated in its Articles and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall:

(a) enforce the provisions of this Declaration, the Articles and the Bylaws by appropriate means and carry out the obligations of the Association hereunder, including without limitation, the expenditure of funds of the Association, the employment of legal counsel, the commencement of actions, the promulgation of the Association Rules as provided in the Bylaws and Section 2 of this Article, which shall include the establishment of a system of fines or penalties enforceable as Special Assessments, also as provided for in the Bylaws;

(b) acquire, maintain and otherwise manage all of the Common Areas and all facilities, improvements and landscaping thereon, and all personal property acquired by the Association;

(c) pay any real and personal property taxes and other charges assessed against the Common Areas unless the same are separately assessed to the Owners.

(d) obtain, for the benefit of the Common Areas, all water, electric, and other services, if any.

(e) grant easements where necessary for vehicular and pedestrian ingress and egress, utilities and sewer facilities over the Common Areas for the benefit of individual Lots within the Covered Property and/or to serve the Covered;

(f) contract for and maintain such policy or policies of insurance as may be required by the Declaration or as the Board deems necessary or desirable in furthering the purposes of and protecting the interest of the Association and its Members;

(g) delegate its powers to committees, officers, or employees as provided in the Bylaws, employ a manager or other persons and contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association.

(h) establish and maintain a working capital and contingency fund in an amount to be determined by the Board.

(i) maintain architectural control over the property and appoint the Committee in connection therewith, pursuant to the Article hereof entitled "Architectural Committee";

(j) have the power of entry upon any Lot where necessary in connection with inspection, construction, maintenance or repair for the benefit of the Common Areas, or the Owners.

(k) provide snowplowing service for the benefit of the Owners of Lots 12 through 19 and their Lots. The Association may delegate such responsibility to a committee consisting of one or more of the Owners of Lots 12 through 19, at its election.

(l) acquire real property easements, or other interests in real property by lease or purchase for the benefit of individual Lots within the Covered Property, offices or other facilities that may be necessary or convenient for the management of the Common Areas, the administration of the affairs of the association or for the benefit of the Members or any of them.

(m) have the power to establish in cooperation with applicable governmental authorities a special tax assessment district for the performance of all or a portion of the maintenance and other functions now within the responsibility of the Association, together with the right to convey or lease, with or without the payment of monetary consideration, all or any portion of the Common Areas to said district.

5.2 Association Rules. The Board shall also have the power pursuant to the procedures set forth in the Bylaws to adopt, amend, and repeal such rules and regulations as it deems reasonable (the "Association Rules").

5.3 Delegation of Powers. The Association shall have the right according to law, to delegate any of its powers under this Declaration, the Articles and Bylaws, provided, however, no such delegation, whether to a professional management company, the Committee or otherwise shall relieve the Association of its obligation to perform such delegated duty.

5.4 Types. The Association, to the extent available, shall obtain and continue in effect in its own name the following types of insurance:

(a) A comprehensive policy of public liability insurance covering the Common Areas for claims for personal injury and/or property damage arising out of a single occurrence, such coverage to include protection against water damage liability, liability for nonowned and hired automobiles and liability for property of others, and such other risks as shall customarily be covered with respect to similar planned unit developments in the area of the Covered Property, and shall contain a "severability of interest" endorsement or the equivalent which shall preclude the insurer from denying the claim of an Owner because of negligent acts or omissions of the Association or other Owners. The limits of liability under such insurance shall not be less than \$1,000,000 for all claims for personal injury and/or property damage arising out of a single occurrence. If the Board determines that increased coverage or additional insurance is appropriate, it shall obtain the same.

(b) A policy of fire and casualty insurance with extended coverage for the full

replacement value of the buildings or other improvements, if any, situated on the Common Areas, without deduction for depreciation, with an "agreed amount endorsement" or its equivalent and clauses waiving subrogation against Members and the Association and persons upon the Covered Property with the permission of a Member, such insurance to afford protection against at least loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, water damage, and such other risks as shall customarily be covered with respect to similar planned unit developments in the area of the Covered Property.

(c) Fidelity coverage against dishonest acts on the part of directors, officers, employees or volunteers who handle or who are responsible to handle the funds of the Association, and such fidelity bonds shall name the Association as obligee, shall be written in an amount equal to one hundred fifty percent (150%) of the estimated annual operating expenses of the Association, including reserves, and shall contain waivers of any defense based on the exclusion of persons who serve without compensation or from any definition of "employee" or similar expression.

5.6 Waiver By Members. As to each of said policies which will not be voided or impaired thereby, the Members hereby waive and release all claims against the Association, the Board, the Declarant and agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said persons, but to the extent of insurance proceeds received in compensation for such loss only.

5.7 Premiums and Proceeds. Insurance premiums for any such insurance coverage obtained by the Association shall be a Common Expense to be included in the Regular Assessments levied by the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried, or otherwise disposed of as provided in the Article hereof entitled "Destruction of Improvements." The Association is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers. Any two Directors of the Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures shall be binding on the Association and the Members.

## ARTICLE VI ARCHITECTURAL COMMITTEE

It is the intention and purpose of this Declaration to impose architectural standards on the Improvements to any Lot of a type and nature that result in buildings which are architecturally compatible in terms of lot coverage, proportion, materials, colors and general appearance, while at the same time allowing for appropriate diversity in style and design. To accomplish this goal, the Declarant hereby establishes the Committee, which is empowered to oversee and enforce the Architectural Design Standards set forth in this Declaration.

6.1 Committee Composition. The architectural control committee (the "Committee") will consist of three members, who may or may not be Owners. The initial Committee shall be appointed by the Declarant or its successor. On the date two years after all of the Lots have been sold by Declarant, or at such earlier date as is selected by Declarant in its sole discretion, the Board shall appoint the Committee and shall retain the right to appoint, augment or replace members of the Committee. The Committee shall act by a majority vote of those present in any meeting duly called for conducting official business.

6.2 Approval by Committee Required. No Improvements of any kind, including without limitation the construction of any Dwelling, garage, guest house, outbuilding, parking enclosure, driveway, tennis court, walkway, or other hard surfaced area in excess of 100 square feet, swimming pool, outdoor hot tub or spa, fence, wall, curb, trampoline, satellite dish or antenna, solar panel, exterior lighting or any other permanent or temporary structure may be constructed, erected, or installed in the Covered Property without the prior consent of the Committee. No excavation, grading, filling, draining, landscaping, shall be made without the advance written consent of the Committee. Approval of the Committee will be sought in the following manner:

(a) Plans Submitted. Plans for the construction of any new Dwelling must be submitted to the Committee for review. It is recommended that a preliminary plan be submitted before the expense of final construction drawings is incurred. A complete submittal shall include:

(1) Owner/Builder Information. A separate 8 ½" x 11" sheet containing the lot number, owners name, address for notification, contact phone number, builder's name, builder's address and phone.

(2) Review Fee and Bond. A check to the Association for the plan review fee, as provided for in 6.2(b), and the landscape, drainage, and concrete bond provided for in 9.7.

(3) Site Plan. The site plan shall include the location of easements and set-back lines and the dwelling footprint with attached decks showing all distances from front, side and rear lot lines. Existing and proposed grading contours lines must be shown in two foot intervals.

(4) Landscape and Drainage Plan. The landscaping plan must show the location of landscaped areas and hard surfaced driveways, walkways, patios, detached decks and other improvements. Landscape areas shall show the location of sod, planting beds, ground covering, trees, irrigation systems, fences (including fence design), and lighting. The plan must indicate the collection of all rooftop drainage, the direction of surface drainage, and collection of all lot drainage to private and public storm systems.



(5) Architectural Plans. Plans shall include the number of levels, square footage for each level, total dwelling square footage, and front and rear building height. Detailed drawings must show the elevations of all buildings showing locations of windows, doors, roof pitches, decks and other exterior elements with a list of all exterior materials and roofing materials.

(6) Material Samples. Samples of the proposed exterior materials shall be submitted with the architectural plans and shall include roofing, siding, trim, brick, and stone. Colors samples for stucco, trim, doors, and shutters shall also be provided. Additional materials specifications and photographs representing similar features may be requested by the Committee.

In the case of an addition or modification of an existing Dwelling, the Committee may waive any of the forgoing it determines it to be unnecessary for its review .

(b) Review Fee. The applicant will pay a review fee to the Committee in an amount reasonably necessary to cover the costs of review and the administration of the program in an amount to be established from time to time by the Architectural Committee. The initial review fee to be imposed as of the date hereof is \$200.

(c) Review. Within 30 days from receipt of a complete submission, the Committee will review plans and make an initial determination whether or not the plans comply with the conditions imposed by the Declaration. If they do not, the plans will be rejected. If they are in compliance, the Committee will approve the plans. The Committee may also approve the plans subject to specific modifications or conditions. Owners may desire to submit preliminary plans for review. The committee will review preliminary plans, without fee, and make its comments known to the Owner provided, however, that no preliminary approval is to be considered a final approval, and no final approval will be granted on less than a complete submission. Upon approval, the Committee and the Owner will each sign a copy of the plans, which shall be left with the Committee. No construction that is not in strict compliance with the approved plans will be permitted.

(d) Written Record. The Committee will maintain a written record of its actions, and maintain in its files a copy of all plans approved or rejected for a period of five years.

(e) Failure to Act. If the Committee has not approved or rejected any submission within 30 days after payment of the review fee and submission of complete plans, such failure to approve or reject shall not be deemed to be approval of the plan submitted. In such event, the Owner submitting the plan may, by written notice to the Committee, with a copy to the Board, request an approval or rejection within ten days of receipt of such letter. If the Committee fails to reject the submitted plan by the end of such ten-day period, the plan shall be deemed to be approved, provided it complies with all other provisions of this Declaration.

6.3 Variations. Variations to the design standards contained in this Declaration may be granted in the sole discretion of the Committee and approval of the Board. The Committee

cannot grant any variance that has the effect of modifying applicable zoning or building code regulations. Specific features and requirements may be waived or adjusted by the Committee in accordance with this Section to meet the style of a residence not consistent with all of the guidelines but which meets the value and quality mentioned above. The Committee may consider homes located in other neighborhoods, with similarly priced lots, to determine specific features which may be approved.

6.4 Professional Review. The Committee may engage the services of an architect or civil or structural engineer to assist in its review of any proposed improvements, in which case the review fee shall include reimbursement of such expense.

6.5 General Design Review. The Committee will use its best efforts to provide a consistent pattern of development and a consistent application of the standards in this Declaration. These standards are, of necessity, general in nature, and it is the Committee's responsibility to apply them in a manner that results in a high quality, attractive, and well designed community.

6.6 Declarant and Committee Not Liable. There shall be no liability imposed directly or indirectly on any member of the Committee for any loss, damage, or injury arising out of or in any way connected with the performance of the duties of the Committee unless due to the willful misconduct or bad faith of such member. In reviewing any matter, the Committee shall not be responsible for reviewing, nor shall its approval of any building, structure, or other item be deemed approval of, the building, structure, or other item from the standpoint of safety, whether structural or otherwise, or conformance with building codes or other governmental laws or regulations. By approving such plans and specifications neither the Committee, the members thereof, the Association, the Members, the Board nor Declarant assumes liability or responsibility therefor, or for any defect in any structure constructed from such plans and specifications.

6.7 Limitations on Review. The Committee's review is limited to those matters expressly granted in this Declaration. The Committee shall have no responsibility to enforce building codes, zoning ordinances, or other statutes, laws, or ordinances affecting the development or improvement of real property and shall have no liability to any Owner whose plans were approved in a manner that included any such violation. Corrections or changes in plans to bring them into conformity with applicable codes must be approved by the Committee prior to construction.

6.8 Appeal. In the event plans and specifications submitted to the Committee are disapproved thereby, the party or parties making such submission may appeal in writing to the Board. The written request must be received by the Board not more than thirty (30) days following the final decision of the Committee. Within Thirty (30) days following receipt of the request for appeal, the Board shall render its written decision.

ARTICLE VII  
ARCHITECTURAL RESTRICTIONS

All Improvements on any Lot shall be subject to the following restrictions and architectural design standards:

7.1 Number of Dwellings. Only one single family residence may be constructed on any Lot. All Dwellings shall have an attached garage for at least two cars.

7.2 Out Buildings. Any out buildings constructed on a Lot must conform to in style and consist of the same materials, including roof material, as the Dwelling built on the Lot. Out Buildings shall be limited to 120 square feet and to 12 feet in height from the average grade, on all sides, to the roof ridge.

7.3 No Used or Temporary Structures. No previously erected, used, or temporary structure, mobile home, trailer house, or any other non-permanent structure may be installed or maintained on any Lot. No metal building or metal storage sheds are allowed.

7.4 Dwelling Size. Dwelling size requirements are as follows:

(a) A One-story home shall be not less than 2000 square feet on the main floor and not less than 3500 square feet in total, including the basement.

(b) A two-story home shall have not less than 1500 square feet on the main floor, and not less than 2600 square feet of finished living area, excluding the basement.

(c) A Multi-level home means a home with two to three levels above the ground level with some levels being less than a story. A multi-level home shall have not less than 2600 total square feet of living area, excluding the basement, and a ground coverage of not less than 1600 square feet.

7.5 Dwelling Height and Width. Dwelling height and width shall be governed by Draper City requirements. Minimum building length along the frontage of each lot shall be 55 feet.

7.6 Dwelling Setback and Placement. No building shall be erected upon any Lot which would cause any part thereof, including eaves and overhangs, to be (a) closer than thirty feet to the front boundary line of said premises which extends along a platted street in the subdivisions; (b) closer than ten feet to any side boundary line; or (c) closer than thirty-five feet to any rear boundary line which backs up to another lot, and thirty feet otherwise. Notwithstanding the foregoing, the minimum setback for Lot 64 shall be 25 feet and the minimum setback for Lots 70,45,46,47, and 48 shall be 30 feet. Side entry garages may set back 25' from the front boundary line. These provisions for setback shall prevail over setbacks set forth on the recorded plat. The front boundary line is generally nine feet from back of curb on

public streets. Lots on private streets shall use the back of curb or back of sidewalk, where a sidewalk exists, to measure setback.

7.7 Ridgeline Lots. Lots adjacent to the Corner Canyon ridgeline are subject to Draper City ridgeline design standards. Improvements thereon must be reviewed and approved by Draper City specifically for the ridgeline condition prior to issuance of a building permit. Lots 54, 55, 56, 57, 58, 59, 65, 66, 67, 68, 69, 70, 90 & 91 are ridgeline lots subject to this requirement.

7.8 Residence Design and Style. The purpose of the Architectural Guidelines is to maintain the design, style, quality and value of the homes located in the Covered Property.

7.9 Exterior Materials. The structure shall be built with 100% of all the faces finished with either brick, stone or stucco. Brick and stone shall be used for at least 50% of the front and 25% of the sides of the structure, unless otherwise approved by the Committee. The color of all masonry used shall be disclosed to the Committee and Owners must submit samples. Homes finished in mostly brick may be required to provide additional accents and relief. Limited siding for special trim design areas, amounting to no more than 15% of the surface of a given side of the Dwelling, may be approved by the Committee. Wainscot is acceptable. Wood exteriors are not permitted. When brick and stone are both used on the same elevation the color and contrast should be subtle and complimentary.

7.10 Fascia and Soffit Trim. Fascia shall be not less than 8" and not greater than 10". Soffit shall not extend beyond 16" from the wall surface. Soffit trim shall be used on the front elevations and at least halfway back along the sides. The use of pre-finished metal fascia and soffit which includes a soffit crown is encouraged.

7.11 Exterior Trim and Shutters. Exterior trim should be limited to enhance and define windows, doors, soffits, bump-outs, skirting, corners and building relief. Trim should not be used to fill in or cover up blank open space on the elevation field. The width, depth, color and material used for trim should be of a limited size and contrast and compliment its adjacent features and not dominate or create an independent element. Shutters may use greater contrast in color and are encouraged on the front elevation.

7.12 Exterior Colors. All exterior materials to be used shall be disclosed to the Committee and Owners must submit samples. Subtle earth tone colors shall be used for all materials with slight tone transitions from one material to another. Bright colors, white trim, pastels or stark or vivid contrasts are not allowed.

7.13 Exterior Doors. The main entry door assembly shall be at least sixty inches wide and consist of two door panels or one door panel and at least one sidelight. All exterior doors shall consist of natural wood, fiberglass, pre-finished metal clad with glass, or fiberglass with glass. Wood and composite doors shall be stained or painted. Metal doors are not allowed. Natural wood doors with a stained finish are encouraged for the main entry.

7.14 Garage Doors. Garage doors facing the street shall not be taller than 9' feet. Door and trim color shall match the field or trim color of the residence and not be highlighted or draw attention.

7.15 Foundation. Exposed cement foundation height shall not extend more than 18" on a sloped grade, 12" on level grade or 12" in the front and shall be plastered.

7.16 Roof Design. All roofs shall be pitched. All roofing materials must be of architectural grade asphalt shingles or better, i.e. shake, tile, etc., as approved by the Committee. Mansard, fake mansard, A frame, gambrel, flat, curve-linear, and domed roof designs are prohibited. Roof pitches must be within a range of 5/12 to 12/12 front to back and 8/12 to 12/12 for gables and side elevations. Hip roofs covering the entire residence must be broken up with gables and/or dormers.

7.17 Windows. All windows must be at least double glazed. Any trapezoidal window must follow the shape of the walls or roofs surrounding them, with the top parallel to the roof above, and the bottom horizontal or parallel to the roof structure below it. No mirrored or reflective glass may be used.

7.18 Chimney, Vents. Chimneys must be enclosed in an approved material. No exposed metal flues are permitted. Vent stacks must be combined to the extent possible to minimize the number of roof penetrations, and should generally not be visible from the street. Venting and other roof terminations shall be located to the rear of the residence. All roof metal such as flashing, vent stacks, gutters, and chimney caps shall be made of anodized aluminum or galvanized metal painted to match roofing color and set at the minimum height allowed by building codes.

7.19 Antennas. All antennas must be enclosed within the Dwelling. Satellite dishes shall not exceed two and one-half feet in diameter and must be located and screened in a manner approved in advance by the Committee. No satellite dishes shall be located in front or visible side yards. Solar panels will be permitted only with the consent of the Committee, and if permitted at all, must lie flat against the roof and may not differ in pitch or color from the roof surface on which they are mounted. No antenna of any sort which is visible from the front of neighboring properties shall be allowed.

7.20 Elevated Balconies and Decks. Any balcony or deck that is more than twenty-four inches above the natural grade must be constructed in compliance with the following: Decks and balconies shall not extend more than 12 feet beyond the rear of the home. Columns supporting elevated decks shall be no less than 12"x12" and shall extend above the deck as a part of the railing system and shall be consistent with the materials used on the residence exterior. Balconies and decks shall be integrated into the design of the residence and not attached as independent appurtenance. Wood products are discouraged due to the required maintenance. The area under any deck must be screened from view, landscaped, or improved as a patio area. The area under any deck shall not be used for storage of equipment, firewood, building material, or similar material.

7.21 Exterior Sunscreening, Awnings and Shade Trellis. Exterior mounted sunscreen apparatus and material, awnings and shade trellis are allowed only after review and approval by the Committee. Design and color shall be consistent with materials used on the residence and not appear to be planted on or attached to as an afterthought.

7.22 Mail Box, Address Enclosure. An enclosure containing a mail box and newspaper receptacle and street address shall be provided and installed by each lot owner at the time of occupancy. The Committee may specify the enclosure design and material. If the design and material to be used is not specified by the Committee at the time of plan review, the enclosure shall match the Dwelling masonry exterior material. Stucco is not allowed. Address numbers shall be cast in concrete or etched into stone and shall be located 24" to 36" above grade. After the initial installation, individual lot owners will be responsible for replacing any damaged or missing parts of the enclosure, which shall be reconstructed to duplicate the original design and construction. Any mailbox lighting shall be directed downward and limited to illumination of the address numbering.

7.23 Driveways. Every garage shall be serviced by a driveway, which shall provide an area of sufficient width and depth so as to park two vehicles side by side completely out of the street right of way. All driveways are to be constructed only of concrete. Extended driveways required to reach building pad elevation may use asphalt beginning 10 feet beyond the front boundary and must be bordered by a 12 inch concrete border. Driveway width at the street connection shall be no greater than 20 feet.

## ARTICLE VIII CONSTRUCTION COVENANTS

In order to minimize the inconvenience to neighboring Owners during periods of construction within the Covered Property, the following construction regulations shall be enforced. These regulations shall be made a part of the construction contract between the Owner and the Builder of each Dwelling or other Improvements on a Lot. The Owner shall be bound by these regulations, and violations committed by the Builder or its employees, subcontractors or others shall be deemed a violation by the Owner for which Owner is liable.

8.1 Portable Office or Trailer. A builder or general contractor constructing a home on a Lot may utilize a portable office or trailer during the construction period only. The portable office must be located within the Owner's Lot. The temporary office may not be installed prior to the commencement of construction, and must be removed upon the first to occur of: (1) the issuance of a Certificate of Occupancy, (2) the termination, expiration, or cancellation of the Building Permit, (3) the suspension of construction activities for a period of 60 days, or (4) one year after the commencement of construction.

8.2 Construction Debris Removal. The Builder must comply with City ordinances requiring the placement and maintenance of a trash container or dumpster on the Lot. The Builder shall collect trash at the end of each work day and deposit construction trash, packing material, unusable scraps, and other debris in a suitable container, protected from the wind, and regularly serviced. No trash may be burned, buried, or otherwise disposed of within the Covered Property.

8.3 Construction Area Appearance. The Lot must be maintained in a reasonably organized and neat condition at all times during the construction of a Dwelling or other Improvements. Once the Dwelling is enclosed, materials shall be stored inside, and out of sight, whenever practical and possible.

8.4 Sanitary Facilities. The Builder is responsible for the installation and maintenance of an approved portable toilet facility during construction.

8.5 Construction Sign. During periods of actual construction on the Dwelling, the Owner or Builder may install a sign not to exceed six square feet in area identifying the Lot and the Builder. The sign must also comply with any sign ordinance enacted by the City after the date of this Declaration. The sign must be removed upon completion or abandonment of construction.

8.6 Hours of Work. Daily working hours on the site shall be limited to the period beginning one half hour before sunrise and ending one half hour after sunset, unless otherwise restricted by City ordinances. The Builder is responsible for controlling noise emanating from the site.

8.7 Removal of Mud. The Builder is responsible for cleaning up and removing mud that is deposited on the roadways of the Covered Property by their construction operation.

8.8 Duration of Construction. No construction shall be undertaken without a building permit and all other necessary permits from the City and any other governmental entity having jurisdiction over construction on the site. No materials, tools, temporary offices or portable toilets, excavation or construction equipment, or similar materials or equipment may be delivered to this site prior to the issuance of the building permit. It is the obligation of the Owner to prosecute construction with all reasonable speed once construction has commenced, and in any event, all exterior surfaces of the building shall be substantially completed within a period of six months from the date of the foundation is complete.

ARTICLE IX  
LANDSCAPE STANDARDS

It is the intent of the Declaration to require appropriate landscaping of Lots following construction of any Improvements, and to encourage the use of appropriate plant materials. The use and Improvement of each Lot is subject to the following Landscape Standards and prior approval of the Committee:

9.1 Lawn and Landscaping Required. Each Owner is required to fully landscape his or her Lot. Front, side and rear yard landscaping is to be installed within 60 days of substantial completion of a Dwelling or by the following June 1<sup>st</sup> in the case of a winter completion, but in any event within 14 months from the issuance of a building permit. Front, side and rear yard lawn areas must be planted with sod and not grown from seed or power mulching. Trees, lawns, shrubbery and other plantings provided by each lot owner shall be properly nurtured and maintained at the Owner's sole expense, including replacement of the same upon the request of the Committee. Each Owner shall maintain all apparatus for erosion control such as fencing and erosion blankets on such Owner's Lot and may remove such apparatus only following receipt of written consent of the Board.

9.2 Placement of Trees. A minimum of six conifer and eight deciduous trees shall be planted within each Lot. Conifers shall be a height of at least six feet and deciduous trees shall be at least a one and one-half inch caliper. The planting and placement of the trees is to be accomplished in accordance with the landscape plan submitted to and approved by the Committee. The lot Owner is required to plant and maintain at least two trees, with a caliper size of 2 inches or greater, in the park strip between the back of the curb and the sidewalk in front of his or her Lot. The type and size is to be determined by the committee. Only sod and trees will be permitted in the park strip.

9.3 Sprinkler System. All landscape and lawn areas, including those in the landscape strip, shall be provided with permanent underground sprinkler systems.

9.4 Fences. Fencing shall be permitted in the Covered Property only in accordance with applicable City ordinances and must be decorative in nature. No fences may be constructed without the prior approval of the Committee, which may include in its approval criteria considerations of style, material, height, and effect on neighboring properties. White vinyl fencing is not permitted, provided that the Committee may, in its discretion, approve a white vinyl split rail style not greater than 36" high.

9.5 Fires. No exterior fires whatsoever, except barbecue fires contained in receptacles provided therefor, shall be allowed.



9.6 Compaction. Each Owner shall be responsible to ensure proper compaction of soil and fill materials under all footings, structural, and flat concrete areas and to ensure a minimum compaction of 90% standard under all lawn and landscaped areas.

9.7 Bond. Prior to commencing construction on his or her lot, each Owner shall be required to deposit a sum determined by the Board as a cash bond with the Board, the purpose of which shall be to ensure that the Owner fulfills the landscaping standards set forth in this Article IX and the drainage requirements of Section 2.18 and causes no damage to the sidewalk and street curb concrete. As of the date hereof, the amount of the cash bond is Seven Hundred Fifty Dollars (\$750), which amount may be changed by the Board in its discretion. Upon completion of the bonded improvements, each Owner shall submit a statement to the Board that the improvements have been completed and any concrete damage repaired. Within 30 days of receipt of such statement, the Board shall inspect such improvements and repairs and either return the cash bond to the Owner or notify the Owner of any deficiency. The Owner shall promptly (and in any event within 20 days) correct any deficiencies identified by the Board and shall provide evidence satisfactory to the Board of the correction thereof. Upon receipt of satisfactory evidence that the deficiencies have been corrected, the Board shall return the cash bond to the Owner. If the Owner fails to fulfill its responsibilities under this Section 9.7, the Board may keep the deposit as a fine upon such Owner or as liquidated damages, in addition to any other remedies available to the Association under this Declaration or by law.

ARTICLE X  
OWNERS' MAINTENANCE OBLIGATIONS

10.1 Duty to Maintain. The Owner of each Lot shall maintain his or her Lot and the Improvements thereon in a good state of repair and an attractive, safe, and health condition.

10.2 Repair by Committee. In the event that an Owner permits his Lot or Improvements to fall into a state of disrepair that is in a dangerous, unsafe, unsanitary, or unsightly condition or fails to comply with any other covenant or restriction in violation of this Declaration, the Board may give written notice to the Owner describing the condition complained of and demanding that the Owner correct the condition within 30 days. If the Owner fails to take corrective action, the Board shall have the right, but not the obligation, to enter upon the offending Owner's Lot and take corrective action to abate the condition. All costs of abatement shall be charged to the Owner, who agrees to promptly pay the reasonable costs of any work performed under this provision. In addition, each Owner hereby grants to the Association a lien on the Lot and any Improvements to secure repayment of any sums advanced pursuant to this section, which lien may be foreclosed at any time by the Association in the manner prescribed in Utah for the foreclosure of mortgages. Alternatively, without requiring foreclosure, the Association may seek collection of sums advanced directly from the Owner of the Lot in question. In order to claim such a lien, the Association shall record a notice of lien in the office of the Salt Lake County Recorder, setting forth the amount claimed and the work performed for which such lien is asserted. Unpaid amounts will bear interest from the date advanced at the lawful judgment rate under applicable state law.

10.3 Alteration of Exterior Appearance. The Owners will maintain their Lots and Improvements in substantially the same condition and appearance as that approved by the Committee. No subsequent exterior alterations, improvements or remodeling, whether structural or changes in landscaping, paint color or materials will be made without the advance consent of the Committee.

10.4 Repair Following Damage. In the event of casualty loss or damage to the Improvements, the Owner will be entitled to reconstruct the Improvements as they existed prior to the damage or loss without review by the Committee, provided however that alterations or deviations from the original approved plans will require review. Nothing in this Declaration is intended to prevent an Owner who has suffered property damage or loss from taking temporary measures to secure the property and prevent further damage, or to prevent injury or dangerous conditions following loss or damage, before reconstruction begins. Such temporary measures may be taken without the consent or approval of the Committee, provided that any such measures must be of a temporary nature, and repair or reconstruction must begin as soon as circumstances will permit. No damaged structure will be permitted to remain on any Lot for more than 90 days without repairs commencing, and any damaged structure which remains unrepaired after 90 days following the occurrence of damage shall be deemed a nuisance.

#### ARTICLE XI EASEMENTS

11.1 Owners' Rights and Duties. The Lots are subject to easements for water, sewer and other utilities, drainage facilities, and other purposes as set forth on the Plat. In the event of any inadvertent failure to show such easements on the Plat, an encroachment easement is hereby granted to the Declarant and the Association for any such easement provided it is within the setback areas shown on the Plat or required under the terms of this Declaration. The rights and duties of the Owners with respect to such easements and facilities shall be governed by the following:

(a) Wherever sanitary sewer connections, water connections, electricity, gas, telephone or cable television lines or drainage facilities are installed within the Covered Property, the Declarant, the Association, or the Owners of any Lot served by said connections, lines or facilities, as appropriate, shall have the right to enter upon the Lots owned by others, or to have utility companies enter upon the Lots owned by others, in or upon which said connections, lines or facilities, or any portion thereof lie, to repair, replace and generally maintain said connections as and when the same may be necessary as set forth below, provided that such party entering the Lot shall promptly repair any damage to a Lot caused by such entry as promptly as possible after completion of work thereon.

(b) Wherever sanitary sewer connections, water connections, electricity, gas, telephone or cable television lines or drainage facilities are installed within the Covered Property, which connections serve more than one Lot, the Owner of each Lot served by said

connections shall be entitled to the full use and enjoyment of such portions of said connections which service his Lot.

11.2 Utilities. Easements over the Covered Property for the installation and maintenance of electric, telephone, cable television, water, gas, sanitary sewer lines and drainage facilities as shown on the recorded subdivision maps or plats of the Covered Property are hereby reserved by the Declarant, together with the right to grant and transfer the same.

11.3 Construction and Sales. There is hereby reserved to the Declarant, including, without limitation, its sales agents and representatives and prospective purchasers of Lots together with the right in the Declarant to grant and transfer the same, over the Common Areas as the same may from time to time exist, easements for construction, display and exhibit purposes in connection with the erection and sale of Lots and Dwellings within the Covered Property; provided, however, that such use shall not be for a period beyond the sale by the Declarant of all Lots within the last phase to be developed on the Covered Property.

11.4 Repair and Maintenance. There is hereby reserved to the Declarant, together with the right to grant and transfer the same to the Association, an easement for the purposes as provided in the Article of this Declaration entitled "Duties and Powers of the Association," including, without limitation, maintaining the drainage facilities and easements, and inspecting each Lot at any reasonable time for compliance with this Declaration.

11.5 Nature of Easements. Any easements reserved to the Declarant herein, when transferred to an Owner or the Association in the same instrument conveying a Lot or Common Areas to such Owner or the Association, as the case may be, shall be appurtenant to such Owner's interest in said Lot or the Association's interest in the Common Areas, as applicable.

## ARTICLE XII GENERAL PROVISIONS

12.1 Violation Deemed a Nuisance. Any violation of these Covenants which is permitted to remain on the property is deemed a nuisance, and is subject to abatement by the Association or by any other Owner.

### 12.2 Remedies.

(a) Any single or continuing violation of the Covenants contained in this Declaration may be enjoined in an action brought by the Declarant (for so long as the Declarant is the Owner of any Lot), by any other Owner, or by the Committee in its own name. In any action brought to enforce these Covenants, the prevailing party shall be entitled to recover as part of its judgment the reasonable costs of enforcement, including attorneys' fees and costs of court.

(b) Nothing in this Declaration shall be construed as limiting the rights and remedies that may exist at common law or under applicable federal, state or local laws and ordinances for

the abatement of nuisances, health and safety, or other matters. These covenants, conditions and restrictions are to be construed as being in addition to those remedies available at law.

(c) The remedies available under this Declaration and at law or equity generally are not to be considered as exclusive, but rather as cumulative.

(d) The failure to take enforcement action shall not be construed as a waiver of the Covenants contained in this Declaration in the future or against other similar violations.

12.3 Severability. Each of the covenants, conditions and restrictions contained in this Declaration shall be independent of the others, and in the event that any one is found to be invalid, unenforceable, or illegal by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

12.4 Amendment. At any time while this Declaration is in effect, the Owners of 75% of the Lots may amend the provisions of this Declaration, provided that so long as Declarant owns any portion of the Covered Property, Declarant's approval to any amendment shall be required. Any amendment must be in writing. No such amendment will be binding upon the holder of any mortgage or trust deed unless the holder joins in the amendment.

12.5 Constructive Notice. Every person who owns, occupies, or acquires any right, title or interest in any Lot in the Covered Property is conclusively deemed to have notice of this Declaration and its contents, and to have consented to the application and enforcement of each of the covenants, conditions, and restrictions contained herein against his Lot, whether or not there is any reference to this Declaration in the instrument by which he acquires his interest in any Lot.

12.6 Notices. All notices under this Declaration are deemed effective 72 hours after mailing, provided that any mailed notice must have postage prepaid and be sent to the last known address of the party to receive notice. Notices delivered by hand or by nationally recognized express courier are effective upon delivery.

12.7 Interpretation. The provisions of this Declaration shall be interpreted liberally to further the goal of creating a uniform plan for the development of the Covered Property. Paragraph headings are inserted for convenience only and shall not be considered an interpretation of the provisions. The singular will include plural, and gender is intended to include masculine, feminine and neuter as well.

12.8 Mortgagee Protection Provision. The breach of any of the foregoing covenants shall not defeat or render invalid the lien of any mortgage or deed of trust lien on the Covered Property that is made in good faith and for value; provided, however, that all of the covenants contained herein shall be binding upon and effective against any owner of a Lot whose title thereto is acquired by foreclosure, trustee's sale or other foreclosure proceeding, from and after

the date of such foreclosure, trustee's sale or other foreclosure proceeding. Any lien provided for in this Declaration shall be subordinate to the lien of any first mortgage or deed of trust which was recorded before any Notice of Lien became recorded.

12.9 Nonliability of Officials. To the fullest extent permitted by law, neither the Declarant, the Board, the Committee or any other committee of the Association or any member of such Board or committee shall be liable to any Member or the Association for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, omission, error, negligence or the like made in good faith within which such Declarant, Board, committees or persons reasonably believed to be the scope of their duties.

Executed as of the date stated above.

CANYON OAKS DEVELOPERS, LLC, a Utah limited liability company

By [Signature]  
Its Manager

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

The foregoing instrument was acknowledged before me this 9 of October, 2002, by Robert G. Guise manager of CANYON OAKS DEVELOPERS, LLC.

[Signature]  
NOTARY PUBLIC  
Residing at:

My Commission Expires:

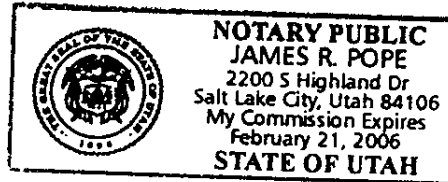


EXHIBIT A

Canyon Oaks Subdivision Phase 1 consisting of the following real property in Salt Lake County:

Beginning at a point which is North 00°38'10" East 1,560.473 feet and East 778.386 feet from the South Quarter Corner of Section 4, Township 4 South, Range 1 East, Salt Lake Base Meridian and running;

Thence, North 48°59'00" West a distance of 68.128 feet to a point on the existing rambling road right of way;

Thence, along said right of way the following 7 courses:

- (1) Thence 241.288 feet along a 130.000 foot radius curve to the left (long chord of which bears North 67°00'05" West a distance of 208.115 feet) with a tangent of 173.599 feet and a delta of 106°20'40";
- (2) Thence, 19.531 feet along a 18.00 foot radius curve to the right (long chord of which bears North 89°05'19" West a distance of 18.587 feet) with a tangent of 10.852 feet and a delta of 62°10'13";
- (3) Thence, 447.291 feet along a 611.000 foot radius curve to the left (long chord of which bears North 78°58'32" West a distance of 437.370 feet) with a tangent of 234.199 feet and a delta of 41°56'39";
- (4) Thence, South 80°03'09" West a distance of 272.926 feet;
- (5) Thence, 130.817 feet along a 539.000 foot radius curve to the right (long chord of which bears South 87°00'20" West a distance of 130.496 feet) with a tangent of 65.731 feet and a delta of 13°54'21";
- (6) Thence, North 86°02'30" West a distance of 349.968 feet;
- (7) Thence, 5.757 feet along a 214.000 foot radius curve to the right (long chord of which bears North 85°16'16" West a distance of 5.757 feet) with a tangent of 2.879 feet and a delta of 01°32'29";

Thence, leaving said right of way line and running along the South property line of the existing South Mountain Phase Subdivision 3C the following 14 courses:

- (1) North 56°26'10" East a distance of 175.476 feet;
- (2) Thence, North 51°27'46" East a distance of 22.565 feet;
- (3) Thence, South 38°32'14" East a distance of 8.000 feet;
- (4) Thence, North 51°27'46" East a distance of 146.140 feet;
- (5) Thence, North 60°54'12" East a distance of 218.583 feet;
- (6) Thence, North 35°44'32" East a distance of 190.917 feet;
- (7) Thence, North 59°03'37" East a distance of 127.035 feet;
- (8) Thence, North 66°09'59" East a distance of 206.002 feet;
- (9) Thence, North 58°04'12" East a distance of 152.550 feet;
- (10) Thence, North 56°33'35" East a distance of 271.901 feet;
- (11) Thence, North 50°59'28" East a distance of 61.037 feet;
- (12) Thence, North 31°23'50" East a distance of 123.027 feet;
- (13) Thence, North 15°46'53" East a distance of 109.250 feet;

(14) Thence, North 00°57'20" East a distance of 56.420 feet;

Thence, leaving said subdivision boundary line and running North 27°50'36" East a distance of 120.000 feet

Thence, South 61°38'00" East a distance of 20.920 feet;

Thence, South 89°03'11" East a distance of 96.730 feet;

Thence, South 43°43'02" East a distance of 284.850 feet;

Thence, South 00°38'06" West a distance of 332.491 feet;

Thence, South 47°33'58" East a distance of 97.854 feet;

Thence, South 56°05'49" East a distance of 101.119 feet;

Thence, South 33°12'21" East a distance of 147.09 feet;

Thence, South 71°22'27" West a distance of 131.91 feet;

Thence, Southerly 112.61 feet along an arc of a 123.50 foot radius curve to the right (center bears South 71°22'16" West long chord bears South 7°29'32" West 108.75 feet with a central angle of 52°14'38")

Thence, South 56°22'55" East a distance of 62.460 feet;

Thence, South 0°36'33" West a distance of 110.570 feet;

Thence, North 89°23'27" West a distance of 104.115 feet;

Thence, South 0°09'55" West a distance of 121.522 feet;

Thence, South 0°36'33" West a distance of 47.000 feet;

Thence, North 89°23'27" West a distance of 4.726 feet;

Thence, South 0°36'33" West a distance of 121.481 feet;

Thence, North 89°23'27" West a distance of 300.00 feet;

Thence, South 36°37'51" West a distance of 64.51 feet to the Point of Beginning.

Less and excepting Lots 92 and 93 as shown on the official plat of Canyon Oaks Subdivision Phase 1 recorded in Book 2002p, Page 10 in the records of the Salt lake County Recorder.

Tax Parcel Numbers:

34-04-251-013

34-04-251-014

34-04-253-006

34-04-402-007 through 34-04-402-023, inclusive

34-04-403-001 through 34-04-403-010, inclusive

34-04-403-012 through 34-04-403-024, inclusive

34-04-403-026 through 34-04-403-028, inclusive

34-04-404-001 through 34-04-404-016, inclusive

34-04-405-001 through 34-04-405-004, inclusive