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BY: SBN, DEPUTY - WI 17 P.

DECLARATION OF PROTECTIVE COVENANTS
FOR
VALLE DI VILLA SUBDIVISION

A SUBDIVISION
IN
CITY OF DRAPER, SALT LAKE COUNTY, STATE OF UTAH

IVORY HOMES, LTD.
DEVELOPER

WHEN RECORDED RETURN TO:

*IVORY HOMES, LTD.
970 E. Woodoak Lane
Salt Lake City, Utah 84117
(801) 268-0700*

**DECLARATION OF PROTECTIVE COVENANTS
FOR
VALLE DI VILLA SUBDIVISION**

THIS DECLARATION OF PROTECTIVE COVENANTS FOR VALLE DI VILLA 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 certain real property located in the City of Draper and County of Salt Lake, State of Utah, described more particularly on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property").

B. Developer has subdivided the Property. Phase 1 will consist of 69 Lots, which will be known as Lot Numbers 101-169 of the VALLE DI VILLA SUBDIVISION, PHASE 1.

C. The Property is an area of unique natural beauty, featuring distinctive terrain.

D. The Property is zoned "Residential Special District" to permit a master planned, architecturally controlled residential development (the "RSD").

E. The RSD zoning requirements allow for and permit flexibility in terms of planning, site design and development through the ability to customize the zoning and development standards to achieve a singular and unique development opportunity.

F. An integral feature of the RSD zone is the ability and flexibility to plan for single-family residential lots of various sizes which appeal to a diversity of different types of home buyers and family profiles. This lot size diversity allows for buyers of differing family sizes and age variations to live in an architecturally controlled neighborhood environment where not all of the lots and houses are virtually the same size and price range, as are commonly found in other zoning classifications within Draper City.

G. The Developer seeks to utilize this RSD zone to enhance and create an upscale residential development on a very prestigious, well located approximately sixty-two (62) acre parcel of land, located at 12150 South and 2000 East.

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

I. Subdivision plat review is required for each phase of the development according to the requirements and standards of Title 17, Draper City Code.

J. Approval of this RSD acknowledges acceptance of the schematic development plan as satisfying Draper City's requirements for the Concept Subdivision Plan review and approval. Preliminary and final plats will be processed and reviewed concurrently by the City, and approved upon a finding that the submitted preliminary and final plats do not substantially deviate from the approved build-out plans and there are no significant engineering issues to be resolved.

K. Exhibits "A through M," attached to the approved Valle di Villa, Residential Special District Zone bearing the date September 27, 2002 and incorporated herein by this reference, define the development standards for the Property subject to changes by Draper City or the Developer from time to time.

L. By subjecting the Property to this Declaration, it is the desire, intent and purpose of Developer to provide a general plan for development of the land, create a community in which beauty shall be substantially preserved, which will enhance the desirability of living on that real estate subject to this Declaration, and which will increase and preserve the attractiveness, quality and value of the lands and improvements therein.

PROTECTIVE 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. "Accessory Building" shall mean and refer to any structure which is not the preliminary structure, containing at least 120 square feet, and requires a building permit, and shall not include any shed, shack or other out-building for which a building permit is not required.

b. "Architectural Review Committee" shall mean the person or persons appointed to review the designs, plans, specifications, homes, architecture, fencing, and landscaping within the Subdivision (the "ARC").

c. "Association" shall mean all of the Owners acting as a group in accordance with the Declaration.

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

e. "Common Areas and Facilities" shall mean and refer to all of the common elements in the Project including but not limited to the entry, entry monument, park strips, bridge, open space, pedestrian trail system, pedestrian corridor intersection, open space corridor, other landscaping and improvements of a less significant nature and a swimming pool and/or other recreational amenities.

f. "Common Expense" shall mean and refer to all expenses incurred by the Association in maintaining, repairing, and replacing the Common Area and Facilities.

g. "Design Guidelines" shall mean and refer to the then current Design Guidelines for Ivory Homes.

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

i. "Entry" shall mean the entry way into the Subdivision.

j. "Entry Monument" shall mean the monument identifying the Subdivision and surrounding landscaping and planter area located at the Entry to the Project.

k. "Ivory Homes" shall mean and refer to the Developer, Ivory Homes, Ltd.

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

m. "Management Committee" or "Committee" shall mean and refer to the ARC, which shall administer the Association.

n. "Open Space" shall mean and refer to the commons, parks, grounds, and open landscaped areas within the Subdivision.

o. "Owner" or "Owners" shall mean the record owner or owners of a fee simple title to any Lot, whether one or more natural persons or legal entities, and excluding those persons having such interest merely as security for the performance of an obligation.

p. "Period of Developer Control" shall mean and refer to a period of time commencing on the date this Declaration is recorded and terminating on the occurrence of last of the following Events: (1) Four months after 100% of the Dwellings constructed upon Lots owned by Developer in all phases have been sold; or (2) When in its sole discretion the Developer so determines and records a written Waiver of Control.

q. "Person" shall unless otherwise indicated mean and refer to a natural person, corporation, partnership, trust, limited liability company, or other legal entity.

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

s. "Plat Map" shall mean and refer to the "Record of Survey Map or Maps of, as it may be amended from time to time. The Plat Map will show the location of the Lots.

t. "Project" shall mean the Subdivision.

u. "Recreational, Oversized or Commercial Vehicle" shall mean and refer to any recreational, commercial or oversized vehicle, motor home, commercial vehicle, tractor, golf cart, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft, boat trailer, horse trailer, or any other recreational, oversized or commercial transportation device of any kind.

v. "Parking Pad" shall mean and refer to a cement or concrete, (or other construction material approved in writing by the ARC) parking pad constructed or installed on a Lot for the purpose of parking or storing of a Recreational, Commercial, or Oversized Vehicle.

w. "Parking Pad Fence" shall mean and refer to the cinder block, vinyl or wood (or other construction material approved by the ARC in writing) fence surrounding the Parking Pad.

x. "Subdivision" shall mean VALLE DI VILLA Subdivision.

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

3. Right to Expand Application. Without any other additional approval required, the Developer shall have the exclusive, unilateral, unconditional, and irrevocable right to (a) convert the use of a lot or lots to accommodate a swimming pool and/or other recreational amenities; and (b) expand the application of this Declaration to other real property and to add future phases by written amendment to this Declaration duly recorded.

4. Association. The Association will be formed and maintained in perpetuity to care for, maintain, repair and replace, as necessary, the Common Areas and Facilities, including by way of illustration but not limitation the publicly accessible open space and landscape elements and features as designed throughout the Project.

5. Management. The Association shall be directed and managed by a committee of at least three (3) and no more than five (5) members. Until the termination of the Period of Developer's Control, the Developer shall

select the members of the Management Committee. Thereafter, the Owners shall elect or appoint the members of the Management Committee in accordance with the Project Documents.

6. General Status and Authority and Duties of Management Committee. The Management Committee shall have the power and authority to adopt an annual budget, levy assessments, allocate the Common Expenses among the Owners, bill the Owners for their portion of the Common Expenses, collect the Assessments, pay all Common Expenses, insure the Common Areas and Facilities, adopt bylaws, adopt rules and regulations, and take all other actions necessary or incident thereto. Any instrument executed by the Management Committee or its legal representative or Managing Member which recites facts which, if true, would establish the power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument. The Management Committee shall constitute a legal entity capable of dealing in its own name or in behalf of two or more Owners. The Management Committee shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Section and its decisions. The Management Committee may appoint offices and agents of the Association, such as a President and Secretary, who may but need not be members of the Committee. Until the end of the Period of Declarant's Control, the Declarant shall have the exclusive, unilateral and irrevocable right to appoint the members of the Management Committee and the Managing Member.

7. Common Profits, Expenses, and Voting Rights. The common profits of the Property shall be distributed among, the common expenses shall be charged to, and the voting rights shall be available to, the Lot Owners equally.

8. Debt Collection. An assessment or fine is a debt of the Owner at the time it is made and is collectible as such. Suit to recover a personal judgment for unpaid fines is maintainable by the Association without foreclosing or waiving the lien securing it. If any Owner fails or refuses to make any payment of an assessment or fine when due, that amount constitutes a lien on the interest of the Owner in the Property, and upon the recording of notice of lien, it is a lien upon the Owner's interest in the Property prior to all other liens and encumbrances, recorded or unrecorded, except: (a) tax and special assessment liens on the Lot in favor of any assessing unit or special improvement district; and (b) encumbrances on the interest of the Owner recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

9. Late Fees. A late fee of \$20.00 may be charged on all payments received more than ten (10) days after they were due.

10. Default Interest. Default interest of 1.5% per month may be assessed on the outstanding balance of all delinquent accounts until paid in full.

11. Architectural Review Committee ("ARC"). The Developer has the power and authority to resolve all architectural issues during the Period of Developer's Control and appoint the member(s) of the ARC and the Managing Member. Thereafter, the Management Committee may function as the ARC or appoint separate members to serve thereon. The initial members of the ARC are Chris Gamvroulas, John Cahoon, and Brian Apsley, who shall serve until such time as their successors are qualified and appointed.

a. **Authority.** The ARC shall resolve all architectural issues, subject to the irrevocable right of Developer to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and/or to veto any decision which Developer determines, in its sole discretion, to be inappropriate or inadvisable

b. **ARC Powers and Standing.** Any instrument executed by the ARC or its legal representative that recites facts which, if true, would establish the power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument. The ARC shall constitute a legal entity capable of dealing in its own name or in behalf of two or more Owners. The

ARC shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Section and its decisions, including without limitation:

1. **Review Plans.** The power and authority to review and approve or disapprove all architectural designs, plans, specifications, construction materials, and construction.

2. **Respond to Complaints.** While the ARC will not police the Subdivision, it shall have the power and authority, but not the obligation, to respond to written concerns of Owners about architectural issue.

3. **Access.** The power and authority to enter into or upon any Lot to make inspections, evaluations or repairs and to do other work necessary for the proper maintenance and operation of the Subdivision or to enforce the decisions of the ARC. Except in the case of an emergency, residents shall be given at least twenty-four (24) hours prior notice before the ARC may exercise this power.

4. **Assess.** The power and authority to levy and collect Assessments, upon request, for the Management Committee.

5. **Enforcement.** The power and authority to issue sanctions, fine, or otherwise individually charge an Owner for a violation of the Design Guidelines or seek other more formal legal remedies, including but not limited to injunctive relief and damages.

6. **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 ARC to perform its functions for and in behalf of the Owners.

12. **Common Utilities.** The Developer may elect to provide common water and power utility services through a meter or meters on an individual Lot or Lots. Each such Owner agrees, by accepting a deed or other document of conveyance to such Lot, to provide those common water and power utility services to the Common Areas and Facilities not separately metered and billed to the Association by the provider; provided, however, in such circumstance the Owner of each such Lot shall be entitled to the following credits:

a. **Water.** A monthly credit an amount equal to the difference between the water bill for each such Lot and the average water bill for all of the other Lots in the Project; and

b. **Power.** A monthly credit in an amount equal to the greater of (1) \$5.00 or (2) a sum equal to the number of watts in the light bulb, multiplied by the Kilowatt rate of the local power company, multiplied by 4,000, divided by 1,000, and divided by 12.

13. **Insurance.** If reasonably available, the Management Committee may elect to purchase adequate liability insurance, property insurance, workers compensation insurance, a fidelity bond, and directors and officers insurance providing coverage for the Association and/or the ARC.

14. **Use Restrictions and Nature of the Project.** The Property is subject to the following use restrictions which shall govern both the architecture and the activities within the Project:

a. **Private Residence.** No Lot shall be used except for residential purposes for a single family. No temporary structure including trailers, tents, shacks, garages, barns or other outbuildings shall be used on any Lot at any time as a residence. No Dwelling may be rented for short term or vacation use, on a seasonal basis, or for hotel or transient use. Individual rooms may not be rented to separate persons. The initial term of any lease shall be at least six (6) months. All leases shall be in writing and the occupants shall be subject to and bound by the restrictive covenants set forth herein.

b. **Business Use.** No commercial trade or business may be conducted in or from a Lot or Dwelling Unit unless (a) the business activity conforms to all home occupation and zoning requirements governing the Project and (b) the Owner or Resident has obtained the prior written consent of and satisfied all of the conditions imposed by the Management Committee in accordance with the Home Occupation Guidelines. Notwithstanding the foregoing, the leasing of a Lot shall not be considered a trade or business within the meaning of this subsection.

c. **Storage and Parking of Vehicles.** The driving, parking, standing, and storing of motor vehicles in, on or about the Subdivision shall be subject to the following:

- 1) The parking rules and regulations adopted by the ARC from time to time;
- 2) No motor vehicle or trailer, including but not limited to any car, automobile, truck, van, or any other transportation device of any kind may be parked or stationed in such a manner so as to block access to any driveway or Dwelling or to create an obstacle or potentially dangerous condition.
- 3) No Resident shall repair or restore any vehicle of any kind in, on or about any Lot, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.
- 4) No garage may be altered in such a manner that the number of motor vehicles which may reasonably be parked therein after the alteration is less than the number of motor vehicles that could have been reasonably parked in the garage as originally designed and constructed.
- 5) All garages shall be used primarily for the parking and storage of vehicles.
- 6) Daytime parking on the street is allowed.
- 7) Overnight parking on the street is not allowed.
- 8) All motor vehicles parked so as to be visible from the street or another Lot must be undamaged (less than \$1000.00 to repair), in good mechanical condition, registered, and licensed.
- 9) Except as otherwise expressly permitted, motor vehicles may not be "stored" so as to be visible from the street or another Dwelling.
- 10) Recreational, Commercial, and Oversized Vehicles may be stored on a Parking Pad provided (a) it is located in a side yard behind the houseline or in the rear of the Lot, and (b) it is in running condition and properly licensed.
- 11) Vehicles parked in violation of this Declaration may be immobilized, impounded, or towed by the ARC or its designee without further notice and at the owner's sole risk and expense.

d. **Maintenance.** All Lots and Dwellings shall be kept by the Owner in good repair and maintenance and in a clean, safe, sanitary and attractive condition.

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

f. **Aerials, Antennas, and Satellite Systems.** No aerials, antennas, satellite dishes or systems shall be erected, maintained or used in, on or about any Dwelling, outdoors and above ground, whether attached to or on top of any building, structure, Dwelling, or otherwise, within the Subdivision without the prior written consent of the Developer or ARC, which shall not be unreasonably withheld. In making its decisions, the Developer and/or ARC shall abide by and be subject to all relevant local, state and federal laws, including but not limited to all FCC

guidelines, rules and regulations as they may be amended or supplemented from time to time. Insofar as is reasonably possible without impairing reception, satellite dishes, aerials and antennae shall be positioned so that they are screened from view from the street.

g. Animals and Pets. The keeping of animals other than those ordinarily kept as family pets within the Subdivision is forbidden. No pets, animals, livestock or poultry of any kind shall be bred in, on or about the Project. Up to two domestic pets per Dwelling are allowed; provided, however, all pets must be properly licensed and registered (if required) with the appropriate governmental agencies and follow all applicable local ordinances. Pets may not create a nuisance. The following acts of an animal may constitute a nuisance: (1) it causes damage to the property of anyone other than its owner; (2) it causes unreasonable fouling of the air by odors; (3) it causes unsanitary conditions; (4) it defecates on any common area and the feces are not immediately cleaned up by the responsible party; (5) it barks, whines or howls, or makes other disturbing noises in an excessive, continuous or untimely fashion; (6) it molests or harasses passersby by lunging at them or chasing passing vehicles; (7) it attacks people or other domestic animals; (8) it otherwise acts so as to bother, annoy or disturb other reasonable residents or interferes with their right to the peaceful and quiet enjoyment of their property; or (9) by virtue of the number of pets maintained, they are offensive or dangerous to the health, welfare or safety of other residents. Pets in the Subdivision at large must be behind a fence, in a cage or on a leash and under the control of a responsible person.

h. Laws. Nothing shall be done or kept in, on or about any Lot or any part thereof, which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.

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

j. Signs. No signs, billboards or advertising structures or devices of any kind may be built, installed or displayed on the Property or any Lot except for a single sign with a maximum size of 2' x 2' for specific purpose of advertising the sale or rental of a Dwelling; provided, however, this restriction does not apply to and is not binding upon the Developer, who may use whatever signs it deems appropriate to market its Lots.

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

l. Landscaping. All landscaping, grading, and drainage of the land in each Lot shall be completed strictly in accordance with the Landscaping Guidelines adopted by the Developer or the ARC, and so as to comply with and not impair all Salt Lake County Ordinances and flood control requirements.

m. Easements. Easements and rights of way for the installation and maintenance of utilities, drainage systems and facilities, and irrigation are reserved, as set forth herein and in the legal descriptions of the Property. Within these easements and rights of way, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in, on or about the easements and rights of way, or which may obstruct or retard the flow of water through the drainage channels in the easements and rights of way. The easement and right of way area of each Lot and all improvements within said area shall be maintained continuously by their Owners, excepting those improvements for which a public authority or utility company is expressly responsible.

n. Slope and Drainage Control. No structure, plant, improvement or other material may be placed or permitted to remain, or other activities undertaken which may damage or interfere with established Lot ratios, create erosion or sliding problems, or which may change the direction or flow of drainage channels, or obstruct or retard the flow of water through the channels. The slope control area of each Lot and all improvements therein shall be maintained continuously by the Owner of the Lot, excepting those improvements for which a public

authority or utility company is expressly responsible. It shall be the responsibility of the Owner to see that his Lot strictly conforms with the grading and drainage plan established by the Developer and Salt Lake County.

o. **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.

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

q. **Conditional Uses.** The following conditional uses may also be allowed:

1) Accessory apartments;

2) Swimming pool, cabana, equipment building/other outdoor recreational activities (i.e., tennis courts, basketball court, soccer pitch, batting/pitching apparatus, etc.); and

3) Accessory Buildings, permanent storage sheds, detached garage structures, workshops, detached conservatories/greenhouses etc. No tin sheds are allowed.

15. Initial Architectural and Development Standards: The Property is subject to the following initial architectural and development standards:

a. **Density Requirement.** The density of the development is 1.83 units per acre (i.e., 112 units/61 acres), which is consistent with the adjacent neighborhoods to the east and south of the development. The Draper City General Plan designates this area as "low density residential" which is not to exceed 2.0 units per acre.

b. **Lot Size.** An area of not less than 12,000 square feet, or .275 acre, shall be provided and maintained for each dwelling and uses accessory thereto as a minimum for the development. Varying larger lot sizes shall also be provided. The average lot size for the entire 112 lots in the development is approximately 18,600 square feet.

c. **Frontage.** The minimum width of any lot for a dwelling shall be 80 feet, measured 30 feet from the front property line.

d. **Front Yard Setback Requirements.** All residential structures shall be setback 30 feet from the front property line. Lots having an overall slope in excess of 10 percent may, notwithstanding other provisions of the Draper City code to the contrary, be developed with a front setback of 25 feet. Garages or the garage portion of the main structure may extend to a setback line of 25 feet providing that they are side-entry type garages. Provided, however, on corner lots, the front setback shall be a minimum of 30 feet and 25 feet, respectively, regardless of which way the structure faces.

e. **Side Yard Requirements.** All dwelling structures and other main buildings shall be setback from each side property line a distance of at least 10 feet.

f. **Rear Yard Requirements.** All dwelling structures and other main buildings shall be setback from the rear property line a distance of at least 20 feet.

g. **Natural Lots.** Lots 101-110, 159-161 and 148 shall be considered "natural lots." These lots which contain natural existing vegetation (e.g., oakbrush) are to submit, prior to construction, an inventory of the existing vegetation in an effort to retain and protect as much of this natural vegetation as possible.

The existing natural trees and vegetation which occur along all side and rear lot lines are to be preserved to a minimum distance of five feet as measured from either side of the lot property lines. Efforts will be made to sensitively establish and preserve these areas so that they remain as natural in appearance as possible, favoring meandering lines where vegetation must be removed, versus straight cut lines. All side and rear yard setback lines are to be measured from the lot property lines. In lots that contain 30% + slope areas, the vegetation in these sloped (30%+) areas is to be left undisturbed.

h. **Garages.** Attached two or three car garages are required for all dwelling units within the development. A minimum of 12 lots will have side-loaded garages.

i. **Height of Buildings.** No residential dwelling, building or other structure shall be higher than 35 feet as measured from average finish grade to the mid-slope of the main structure's roof line.

j. **Accessory Buildings.** Since Accessory Buildings are considered "conditional uses," each application will be evaluated separately. Any detached Accessory Building must conform in design and construction materials with the primary residential Dwelling. The maximum height of an Accessory Building shall be 12 feet, however the ARC may grant an exception at their sole and exclusive discretion

k. **Roof Lines and Pitches.** All roof pitches shall be sloped at not less than 6:12 and no greater than 12:12. Roof lines shall be varied in height and orientation to provide visual interest and to include dormers, gables, hip roofs, etc. Long, continuous roof lines shall not be allowed.

l. **Windows.** High quality clad wood windows or vinyl windows are allowed. Highly reflective or mirrored glass shall not be used. Decorative window treatments such as surrounds, shutters, or nicely detailed lintels and sills are encouraged.

m. **Building Materials.** Exterior building materials shall include stone, brick along with other high quality exterior siding products such as stucco and hardy board shingles, as approved by the ARC. Asphalt architectural grade, 25 year shingles, cedar shake shingles, tile and/or masonry and slate shingles are standard through the development.

n. **Architectural Theme.** Varied high quality architectural styles are expected and encouraged throughout the development. While not singular in terms of one particular architectural style, the overall project theme utilizes battered stone pillars textured walls along the Highland Drive corridor and the extensive use of stone facing and wrought iron railing treatments on the arched bridge across the Bear Canyon drainage channel.."

16. **Open Space/Landscape Treatments.** In order to enhance the unique natural beauty and distinctive terrain, the Property is subject to the following Open Space restrictions:

a. **Bear Creek Preservation Area.** On the Property is a naturally occurring drainage channel extending into the property from the Pheasant Hills PUD Subdivision to the south and ending at the boundary of the Hidden Valley Golf Course to the west which must be preserved in its current condition. The channel is to be largely undisturbed such that the native vegetation and existing trees will remain to protect the natural scenic beauty of this open space area. The 30 percent side slopes into the drainage channel are to remain undisturbed as much as possible. No yard or formal landscape features or development will be allowed on the 30 percent slope area, except as necessary for the Highland Drive extension and bridge.

b. **Bear Creek Trail.** An asphalt path/trail extending from the walkway system on the east side of Highland Drive and the north side of the bridge structure over the drainage channel is intended to provide pedestrian/bicycle access to the channel heading east to the Pheasant Hills area en route to Pioneer Road and the Corner Canyon area.

c. **30% Slope/Vegetation Preservation.** The native vegetation and existing trees in this area are to be preserved to the extent practicable. Grading within this area is expected to be minimal extending from the 30 percent slopes down and into the channel itself on both sides in order to minimize the potential of erosion and soil loss and preserve the natural character of this Open Space amenity. Notwithstanding these conditions, the channel may be disturbed to extend Highland Drive across the open space drainage channel. A bridge across the drainage channel is proposed and all reasonable efforts to re-vegetate and mitigate the channel disturbance will be made.

d. **Fencing in Preservation Area.** Only black vinyl chain link fencing material will be allowed at the rear lot lines and side lot lines of lots that back onto this open space corridor, including the area up to the 30% slope line and this fencing, which may extend up those side lot lines to the beginning of the 30 percent slope line, is intended to be as visually unobtrusive as possible. No fence or similar structure shall be built in any front yard nor shall any fence or similar structure be built in any side or rear yard in excess of six (6) feet except that fences which abut the conservation and trail easement may not exceed (4) four feet. Wrought iron, vinyl or masonry fencing is permitted and must be earth tone colors. Any fencing or similar structure using other construction materials requires the prior written approval of the ARC. If there is a dispute as to what constitutes the front, side or rear yards, the decision of the ARC shall be final, binding and conclusive. No fencing of any kind is allowed within the conservation and trail easement.

e. **Storm Water Detention Open Space.** The triangular shaped area west of the Highland Drive bridge, which currently terminates at the fence line along Hidden Valley Golf Course, is to be used for a storm water detention basin for the Project.

f. **Pedestrian Circulation Trails.** As illustrated in Exhibits "A, C, D, F, G, I, J, L and M" of the Valle di Villa Residential Special District Zone bearing the date September 27, 2002, the development features an extensive pedestrian circulation system which links together the various Open Space elements of the project. Exhibits "I and J" illustrate where the interior pedestrian paths intersect the roadways. These roadway nodes include specialty concrete paving areas, benches, wrought iron fencing, and high quality landscape elements. These paths are intended to connect the various areas of the Project one to another to facilitate access to the gazebo park area and Bear Creek Trail area.

g. **Gazebo/Park Area.** As shown in Exhibits "A, H, K and L," of the Valle di Villa Residential Special District Zone bearing the date September 27, 2002, a uniquely designed gazebo with specialty landscaping, benches and pedestrian lighting is included in the common Open Space area. This formal park area is approximately one-half acre and is adjacent to the Bear Creek open space preservation area and the open space detention area west of the Bear Creek Bridge. The location of this park and Open Space area, which is near the entrance to the Project from Highland Drive, is intended for aesthetic reasons and to enhance the open area feeling of the development. It is also connected to the generously landscaped Highland Drive pedestrian walks and the interior trail circulation system of the project.

17. **Roadways, Streets and Landscape Treatments.** In order to enhance the utility, natural beauty and economy of the Property:

a. **Highland Drive Extension.** The extension of Highland Drive (the "Modified Collector Road") is to be constructed by the Developer to a width of 42 feet as measured from the back of curb to the back of curb in order to accommodate one lane of traffic in each direction and a center turn lane. In addition, the Developer will install a 5 foot meandering sidewalk on each side of the Highland Drive extension through the 32 foot remainder areas of the 106 foot right-of-way dedication. A 6 foot masonry wall will be constructed along the right-of-way/property line along both the east and west sides of the Highland Drive corridor. The walls will feature battered stone column and Archistone textured walls. The 32 foot right-of-way area on either side of the modified collector roadway will be generously bermed and landscaped along the entire length of the corridor. Reasonable effort will be made to establish the majority of the trees and shrubbery closely adjacent to the right-of-way walls themselves to help attenuate noise

generated by Highland Drive and to help preserve this landscape buffering vegetation in the event that Highland Drive is widened in the future.

b. **Single-Family Dwelling Landscaping.** All front yard landscaping, including required street trees, shall be installed within 6 months of occupancy.

18. **Fencing.** No front yard fencing is to be allowed. No fence or similar structure shall be built in any front yard nor shall any fence or similar structure be built in any side or rear yard in excess of six (6) feet, subject to the exception granted on the 30% slope areas of the Bear Creek channel. Chain link fencing and white vinyl fencing are not allowed. Wrought iron, vinyl or masonry fencing is permitted and must be earth tone colors. Any fencing or similar structure using other construction materials requires the prior written approval of the ARC. If there is a dispute as to what constitutes the front, side or rear yards, the decision of the ARC shall be final, binding and conclusive. No fencing of any kind is allowed within the conservation and trail easement.

19. **Procedures for Approval of Plans and Specifications.** Architectural designs, plans and specifications showing the nature, kind, shape, color, size, materials, and location of all proposed structures and improvements for any Dwelling, Building or structure, including by way of illustration but not limitation all primary Dwellings and Accessory Buildings, shall be submitted to and approved by the ARC *in writing and in advance* of the commencement of construction. The ARC may consult or, in its sole discretion, require the neighbor's approval in writing of a proposed Accessory Building. In addition, information concerning irrigation systems, drainage, lighting, landscaping and other features of proposed construction shall be submitted as applicable. In reviewing each submission, the ARC may consider the proposed design, harmony of external design with existing structures and the common scheme, the location in relation to surrounding structures, topography, finish grade and elevation, among other things. Decisions of the ARC may be based on purely aesthetic considerations. Each Owner acknowledges that opinions on aesthetic matters are subjective and may vary as ARC members change over time. In the event that the ARC fails to approve or to disapprove any application within thirty (30) days after submission of all information and materials reasonably requested, the application shall be deemed approved; provided, however, anything to the contrary notwithstanding, no Dwelling or Accessory Building shall be constructed or altered unless it meets the minimum requirements set forth herein. Designs submitted for approval shall be limited to those prepared by architects or by qualified residential designers of outstanding ability whose previous work may be reviewed as a part of the approval process.

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

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

- a. Plot plan to scale of entire site with buildings located and elevation of floors shown above or below a designated point on the street.
- b. Floor plans of each floor level to scale.
- c. Elevations to scale of all sides of the Dwelling.
- d. One major section through Dwelling.
- e. A perspective (optional).
- f. Specifications of all outside materials to be used on the exterior of the Dwelling.

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

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

b. Detailed floor plans.

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

d. Detailed sections, cross and longitudinal.

e. Details of cornices, porches, windows, doors, garages, garden walls, steps, patios, fences, carriage lights, etc. Specifications shall give complete description of materials to be used with supplements, addenda or riders noting the colors of all materials to be used on the exterior of the Dwelling.

23. No Waiver of Future Approvals. The approval of the ARC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whatever subsequently or additionally submitted for approval or consent.

24. Variance. The ARC may authorize variances from compliance with any of the architectural guidelines when circumstances such as topography, natural obstructions, hardship, aesthetic, or environmental considerations require, but only in accordance with its duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) estop the ARC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit or the terms of financing shall not be considered a hardship warranting a variance.

25. Limitation of Liability. Neither the Developer nor the ARC, or any of their employees, agents, representatives or consultants shall be responsible in any way for violations of Draper City codes, which shall in all respects govern and control, nor any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of this Declaration, nor for any structural or other defects in any work done according to such plans and specifications. By accepting a deed or other document of conveyance to a Lot, each Owner agrees to and shall defend, indemnify, save and hold the Developer and the ARC, and their employees, agents, representatives or consultants, harmless from any and all loss, damage or liability they may suffer, including defense costs and attorney fees, as a result of any claims, demands, actions, costs, expenses, awards or judgments arising out of their review or approval of architectural designs, plans and specifications.

26. Enforcement of Architectural Guidelines. While the ARC will not police architectural issues, it will address complaints made to it in writing by Owners and any construction, alteration, or other work done in violation of this Declaration shall be considered to be nonconforming. Upon written request from the ARC an Owner shall at his own cost and expense remove such non-conforming construction, alteration, or other work and shall restore the land to substantially the same condition as existed prior to the non-conforming construction, alteration, or other work. Should an Owner fail to remove and restore as required hereunder, the ARC shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as existed prior to the construction, alteration or other work, without being deemed to be a trespasser.

27. Contractors. Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Declaration may be excluded by the ARC from the Subdivision, subject to the notice and the opportunity to be heard. In the event of sanctions after notice and hearing, neither the

ARC or the Developer, nor their employees, agents, representatives or consultants shall be held liable to any person for exercising the rights granted by this Section.

28. **Fines.** After written notice of the violation and a hearing, the Management Committee may fine or otherwise sanction an Owner for his failure to comply with this Declaration or any rules and regulations adopted by the Management Committee from time to time.

29. **Developer's Sales Program.** Notwithstanding anything to the contrary, until the termination of the Period of Developer Control neither the Owners nor the Developer shall interfere or attempt to interfere with Developer's completion of improvements and sale of all of its remaining Lots and Dwellings, and Developer shall have the following rights in furtherance of any sales, promotions or other activities designed to accomplish or facilitate the sale of all Lots and Dwellings owned by it. The Developer reserves the right to construct a swimming pool and/or other recreational amenities in the Project.

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

b. **Promotional.** Developer shall have the right to maintain a reasonable number of promotional, advertising and/or directional signs, banners or similar devices at any place or places on the Property.

c. **Relocation and Removal.** Developer shall have the right from time to time to locate or relocate any of its sales offices, models, or signs, banners or similar devices, but in connection with each such location or relocation shall observe the limitations imposed by the preceding portion of this Section. Within a reasonable period of time after the happening of the occurrence, Developer shall have the right to remove from the Subdivision any signs, banners or similar devices and any separate structure or facility which was placed on the Property for the purpose of aiding Developer's sales effort.

d. **Limitation on Improvements by the ARC.** Until the termination of the Period of Developer Control, neither the Owners nor the Developer shall, without the written consent of Developer, make any improvement to the Subdivision or alteration to any improvement created or constructed by Developer.

e. **Developer's Rights Assignable.** All of the rights of Developer under this Declaration may be assigned or transferred either by operation of law or through a voluntary conveyance, transfer or assignment. Any Mortgage covering all Lots or Dwellings in the Subdivision title to which is vested in Developer shall, at any given point in time and whether or not such Mortgage does so by its terms, automatically cover, encumber, and include all of the then unexercised or then unused rights, powers, authority, privileges, protection and controls which are accorded to Developer (in its capacity as Builder) herein.

30. **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.

31. **Covenants to Run with Land.** This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit the Developer and 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 Owner or resident 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, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

32. Enforcement and Right to Recover Attorney's Fees. Should the ARC or an aggrieved Owner 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 prevailing party shall be entitled to recover his reasonable attorneys fees, costs and expenses which may arise or accrue.

33. Limitation of Liability. The protective covenants, conditions and restrictions set forth in this Declaration, together with any rules and regulations adopted by the ARC, are established for the benefit of the Property and the Owners. 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 ARC, or for decisions that they may render during the course of their service, unless said party is guilty of gross negligence.

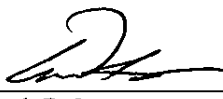
34. Mortgagee Protection. Nothing herein contained, and no violation of these covenants, conditions and restrictions, shall invalidate or impair the lien of any mortgage or deed of trust, given in good faith and for value.

35. Amendments. The Developer may unilaterally amend the Declaration at any time. In addition, this Declaration may be amended upon the affirmative written approval of at least a majority of the Owners 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, (a) so long as Developer shall own at least one (1) Lot in the Subdivision, no amendment shall be valid or enforceable without its express prior written consent, and (b) any amendments affecting fencing, grading, or any Salt Lake County Ordinances shall require the prior written consent of Salt Lake County. Provided, however, the foregoing Mortgagee Protection section cannot be amended without the consent of all first mortgagees.

36. 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.

Dated the 18th day of September, 2003.

DEVELOPER:
IVORY HOMES, LTD.
By: VALUE, L.C.
Its: General Partner

By: 
Name: Clark D. Ivory
Title: Manager

ACKNOWLEDGMENT

STATE OF UTAH)
 ss:
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 18th day September, 2003 by Clark D. Ivory, the Manager of VALUE, L.C., the General Partner of IVORY HOMES, LTD., a Utah limited partnership, and said Clark D. Ivory duly acknowledged to me that said IVORY HOMES, LTD. executed the same.

Christopher P. Gamvroulas
NOTARY PUBLIC
Residing at: SLC, UT
My Commission Expires: 7/20/2007

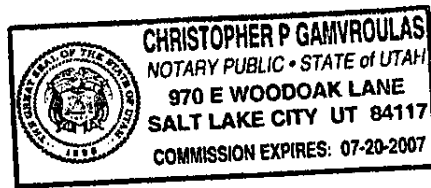


EXHIBIT "A"
LEGAL DESCRIPTION

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

'Beginning at the West quarter corner of Section 27, Township 3 South, Range 1 East, Salt Lake Base and Meridian, and running thence S89°52'30"E along the quarter section line 1,654.36 feet to the Westerly line of Pioneer Road; thence along said Westerly line the following three (3) courses: N26°03'43"E 472.44 feet; Northeasterly along the arc of a 1,333 foot radius curve to the right, chord bears N39°43'13"E 629.53 feet, a distance of 635.53 feet; and N53°22'43"E 73.12 feet; thence leaving Pioneer Road and running N0°18'21"E 363.76 feet; thence N89°52'30"W along the Southerly line of Hidden Valley Golf Course 2,313.68 feet; thence S0°29'09"W along the the West line of said Section 27 1,317.48 feet to the point of beginning.'

(Contains 61.299 Acres)