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RECORDER, SALT LAKE COUNTY, UTAH
IVORY DEVELOPMENT LLC
978 E WOODOAK LN
SLC UT 84117
BY: NEH, DEPUTY - WI 18 P.

(9)

**DECLARATION OF PROTECTIVE COVENANTS
FOR
VALLEY FIELDS,**

**AN EXPANDABLE SUBDIVISION
LOCATED IN
CITY OF WEST VALLEY
SALT LAKE COUNTY
STATE OF UTAH**

**IVORY DEVELOPMENT, LLC.
a Utah limited liability company
DEVELOPER**

WHEN RECORDED RETURN TO:

*IVORY DEVELOPMENT, LLC
978 East Woodoak Lane
Salt Lake City, Utah 84117*

**DECLARATION OF PROTECTIVE COVENANTS
FOR
VALLEY FIELDS,
an expandable subdivision**

This Declaration of Protective Covenants for Valley Fields, an expandable subdivision (the "Declaration") is executed by IVORY DEVELOPMENT, LLC., of 978 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 at 4400 South and 6400 West in the City of West Valley, Salt Lake County, Utah, described more particularly on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property").

B. The Developer has subdivided the Property into 20 Lots for phase one and there may be a total of 172 Lots in the Project.

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

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

E. 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.

a. "**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").

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

c. "**Design Guidelines**" shall mean and refer to the West Valley City requirements set forth on Exhibit "C" attached hereto and incorporated herein by this reference.

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

e. "**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.

f. "**Plat Map**" shall mean and refer to the "Final Subdivision Map of VALLEY FIELDS," as it may be amended from time to time. The Plat Map will show the location of the Lots.

g. "**Project**" shall mean the Subdivision.

h. "**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.

i. "**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.

j. "**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.

k. "**Subdivision**" shall mean the Valley Fields Subdivision.

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

3. **Right to Expand Application.** The Developer shall have the unilateral right to annex and expand the application of this Declaration to other real property by a written amendment or supplement to this Declaration duly recorded.

4. **Architectural and Related Issues.** Since aesthetics, the integrity and harmony of the original design, and the quality of construction and materials throughout the Subdivision is important, all architectural designs, plans, specifications, construction materials, and construction must be (a) reviewed and approved by the ARC or its designee and (b) consistent with the restrictions set forth herein governing the Subdivision.

5. **Architectural Review Committee ("ARC").** Until the termination of the "Period of Developer Control," the ARC has the sole right and exclusive authority to resolve all architectural issues and may, in its sole discretion, designate one or more persons from time to time to act on its behalf in reviewing applications hereunder as the ARC, which before the termination of the "Period of Developer Control" shall consist of three individuals, two of whom must be appointed by Developer, and thereafter may consist of (a) a single individual, architect or engineer, or (b) a committee comprised of architects, engineers or other persons who may or may not be Owners, or (c) a combination thereof. Powers may be delegated by the ARC, provided any such delegation shall specify the scope of responsibilities delegated, and, prior to the termination of the Period of Developer Control, shall be 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. The initial ARC will be made up of Christopher P. Gamvroulas, who shall act as the managing Member, who shall serve until such time as his successors are qualified and appointed. Members serving on the ARC shall be appointed or elected to serve two (2) year terms. Any member of the ARC who fails on three (3) successive occasions to attend regularly scheduled meetings or who has failed to attend at least twenty-five percent (25%) of all regularly scheduled meetings held during any twelve (12) month period shall automatically forfeit his seat. Except for members of the ARC appointed by the Developer prior to the termination of the Period of Developer Control, members of the ARC may be removed at any time by the affirmative vote of at least a majority of the Owners. Unless he forfeits or otherwise loses his seat as herein provided, a member shall serve on the ARC until his successor qualifies and is properly appointed by the Developer or, after the termination of the Period of Developer Control, elected by the Owners. Members of ARC shall not be compensated for their services, although they may be reimbursed for costs advanced.

6. **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:

a. **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.

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

c. **Execute Documents.** The authority to execute and record, on behalf of the ARC, any amendment to the Declaration which has been approved by the vote or consent necessary to authorize such amendment.

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

e. **Contractual Authority.** The authority to enter into contracts which in any way concern the Subdivision.

f. **Promulgate Rules.** The authority to promulgate such reasonable rules and regulations as may be necessary or desirable to aid the ARC in carrying out any of its functions, including by way of illustration but not limitation Parking Rules.

g. **Determine Common Expenses.** The authority to determine the Common Expenses of operating the ARC and administering the Declaration.

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

7. **Transfer of Control of ARC.** Within forty-five (45) days after the termination of the Period of Developer Control (unless otherwise agreed), Developer shall transfer the right to the Owners to appoint at least two members of the ARC.

8. **Procedures for Approval of Plans and Specifications.** Architectural designs, plans and specifications showing the nature, kind, shape, color, size, materials, and location of all proposed structures and improvements shall be submitted to the ARC for review and approval (or disapproval). In addition, information concerning irrigation systems, drainage, lighting, landscaping and other features of proposed construction shall be submitted as applicable. In reviewing each submission, the ARC may consider the proposed design, harmony of external design with existing structures and the common scheme, the location in relation to surrounding structures, topography, finish grade and elevation, among other things. Decisions of the ARC may be based on purely aesthetic considerations. Each Owner acknowledges 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 shall be constructed or altered unless it meets the following minimum requirements:

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

b. Only single family residential Dwellings are allowed.

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

d. No slab on grade Dwellings are permitted.

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

f. Without the prior written consent of the ARC, each Dwelling shall have a private garage for not less than two motor vehicles.

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

h. Any detached accessory building must conform in design and materials with the primary residential Dwelling. Any and all accessory building plans must be submitted, reviewed and approved in advance. The maximum height of an accessory building shall be 8 feet; however, the ARC may grant an exception at it's sole discretion.

i. Any detached accessory building must conform in design and materials with the primary residential Dwelling.

j. Landscaping and all grading and drainage shall be designed in such a way to control water run-off so that any Lot within the Subdivision will not be adversely affected by another. Furthermore, the grades initially established by the ARC or Developer may not be altered without the prior written consent of the ARC. All landscaping must conform to the Landscaping Guidelines as adopted by the ARC from time to time.

k. Fencing in the front yard setback area is discouraged, although decorative fencing such as wrought iron, masonry and select types of vinyl are allowed in the front yard setback area, provided they strictly comply with City height standards. No fence or similar structure may be built in any front yard setback area to a height in excess of four (4') feet, nor shall any fence or similar structure be built in any side or rear yard in excess of six (6) feet. Chain link fencing is not be allowed. Natural wood, wrought iron, masonry, and select types of vinyl fencing are permitted in the side and rear yard areas. 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.

1. The following conditional uses may also be allowed:

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

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

m. Except for purposes of loading or unloading passengers or supplies (for a period of time not to exceed twenty-four (24) hours), all Recreational, Commercial or Oversized Vehicles must be parked in the side yard of a lot on a Parking Pad behind a Parking Pad Fence so as not to be visible from the street or any other Lot.

n. 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.

9. **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.

10. **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.

11. **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.

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

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

14. **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 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.

15. **Enforcement of Architectural Guidelines.** 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.

16. **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.

17. **Use Restrictions and Nature of the Project.** The Lots are subject to the following use restrictions which shall govern both the architecture and the activities within the Subdivision:

a. **Private Residence.** No Lot shall be used except for residential purposes and all residents shall be obligated by the following requirements: no temporary structure including trailers, tents, shacks, garages, barns or other outbuildings shall be used on any Lot at any time. No Dwelling shall be rented 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.

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

d. **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.

e. **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.

f. **Animals and Pets.** Large animals as that term is defined by West Valley City Ordinance are not allowed. No pets, animals, livestock, or poultry of any kind may be commercially bred at the Subdivision. Up to two (2) domestic pets as that term is defined by West Valley City Ordinance per Lot are allowed; provided, however, pets must be properly licensed and registered. Pets may not create a nuisance. The following acts may constitute a nuisance: (1) causing damage to the property of anyone other than the pet owner; (2) causing unreasonable fouling of the air by odors; (3) causing unsanitary conditions; (4) running loose throughout the Subdivision and not in a cage or on a leash and under the control of a responsible person; (5) barking, howling, whining, or making other disturbing noises in an excessive, continuous or untimely fashion; (6) molesting or harassing passersby by lunging at them or chasing passing vehicles; (7) attacking or threatening to attack people or other domestic animals; (8) otherwise acting so as to bother, annoy or disturb the sensibilities of a reasonable person or interfering with the right of residents to the peaceful and quiet enjoyment of their property; or (9) the mere number of pets maintained creates an offensive or dangerous condition to the health, welfare or safety of other residents.

g. **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.

h. **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.

i. **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.

j. **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.

k. **Landscaping.** All Lot landscaping, grading, and drainage 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 applicable ordinances and flood control requirements. All Lot landscaping, including the installation of an automatic sprinkler/irrigation system, planting of trees and laying of sod, must be completed within nine (9) months of the date of closing on the purchase of a home. Landscaping shall include by way of illustration but not limitation the planting of a lawn and/or other appropriate ground cover, planting beds and flower beds, appropriate bushes and shrubs, and the planting of trees in accordance with the Street Tree Planting Plan, a copy of which is attached hereto, marked Exhibit "B" and incorporated herein by this reference. The Owner is responsible for the initial planting of trees. At closing, a certificate for two street trees of 1 and ½ inch caliper will be provided to the buyers. In addition, at closing buyers of all Lots adjacent to 6400 South will be provided with certificates for two additional trees of 1 and ½ inch caliper which must included in the landscaping on the side or rear yard closest to 6400 West. Certificates for 2,000 square feet of sod will also be given to all buyers at closing, which must be used in the front yard and may not be exchanged for seed. Trees, lawns, shrubs, or other plantings placed on a Lot shall be properly nurtured, maintained and replaced by the Owner. Any weeds or diseased or dead lawn, trees, ground cover, bushes or shrubs shall be removed and replaced. All replacement trees must also satisfy the requirements of the Street Tree Planting Plan. The landscaping of a Lot may not adversely affect the value or use of any other property or detract from the original design scheme and appearance of the subdivision.

No concrete, cement or masonry products, pavers, brick, stone, cobblestone, tile, terrazzo, slabs, slate, rocks, pebbles, gravel, permeable pavements and so forth or other artificial or impermeable surfaces (collectively "controlled surfaces") may be installed or constructed as landscaping in the front, side or rear yards of a Lot without the express prior written consent of the ARC. Front, side or rear yards constructed primarily or substantially of controlled surfaces are prohibited.

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

l. **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.

m. **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.

n. **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.

o. **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

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

r. **Overpressure Zone.** The area in which the Subdivision is located may be subject to overpressure waves caused by accidental explosion. While the possibility of such an occurrence is remote, the provisions of West Valley City Ordinance Section 7-10 will apply, which requires "all new structures and additions in the 0.2 and .35 overpressure zones to comply with certain specifications for the type of glass or glass substitute used in windows, doors and skylights."

18. **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:

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.

19. **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.

20. **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.

21. **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.

22. **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.

23. **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. The lien or claim against a Unit for unpaid Assessments shall be subordinate to any Mortgage recorded on or before the date such Assessments become due.

24. **Amendments.** This Declaration may be amended unilaterally by the Developer at any time. In addition, upon the affirmative written approval of at least a majority of the Owners of the Lots provided, however, (a) so long as Developer shall

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:

All of Lots M-1, M-2 and a portion of Lot M-3, Vistas at Westridge No. 1A, as recorded with the office of the Salt Lake County Recorder, located within the Northwest quarter of Section 2, Township 2 South, Range 2 West, Salt Lake Base and Meridian, U.S. Survey, West Valley City, Salt Lake County, Utah, that portion of Lot M-3 being more particularly described as follows:

Beginning at a point on the West line of said Lot M-3 and the East line of 6400 West Street of said Vistas at Westridge No. 1A, being South 0°06'28" East 2471.17 feet along the section line and North 89°53'32" East 33.00 feet from the West quarter corner of said Section 2; and running thence 10 courses along the boundary line of said Lot M-3 as follows: North 0°06'28" West 85.00 feet to a point of curvature; Northeasterly along the arc of a 15.00 foot radius curve to the right through a central angle of 89°59'59" (center bears North 89°53'32" East, long chord bears North 44°53'31" East 21.21 feet), a distance of 23.56 feet to a point of tangency; North 89°53'31" East 95.15 feet; North 87°37'53" East 76.06 feet; North 89°53'31" East 504.36 feet to a point of curvature; Northeasterly along the arc of a 528.00 foot radius curve to the left through a central angle of 32°59'10", (center bears North 0°06'29" West, long chord bears North 73°23'56" East 299.80 feet), a distance of 303.98 feet to a point of tangency; North 56°54'21" East 58.36 feet to a point of curvature; Northeasterly along the arc of a 172.00 foot radius curve to the right through a central angle of 52°58'35" (center bears South 33°05'39" East, long chord bears North 83°23'39" East 153.43 feet), a distance of 159.03 feet to a point of compound curvature; Southeasterly along the arc of a 5523.58 foot radius curve to the right through a central angle of 1°17'37" (center bears South 19°52'56" West, long chord bears South 69°28'15" East 124.70 feet), a distance of 124.70 feet; thence South 0°07'26" East 105.21 feet along said boundary line; thence South 89°52'19" West 100.02 feet; thence North 48°34'14" West 74.70 feet; thence South 89°53'31" West 100.10 feet; thence South 0°7'41" East 40.30 feet; thence South 60°18'24" East 80.96 feet; thence South 68°33'19" West 102.57 feet; thence South 77°57'14" West 106.32 feet; thence South 89°53'31" West 593.96 feet; thence North 88°03'46" West 56.04 feet; thence South 89°53'31" West 120.15 feet to the point of beginning.

EXHIBIT "B"

STREET TREE PLANTING PLAN

01. GENERAL REQUIREMENTS

- 01.1. STREET TREES initially are to be planted by the homeowner in compliance with this plan.
- 01.2. STREET TREES are to be planted in the parkstrip in front of each lot. They are to be centered between the back of curb and the edge of the sidewalk.
- 01.3. Two (2) Street Trees are to be planted per lot.
- 01.4. Corner lots shall have two (2) Street Trees on each street fronting the lot—or a total of four (4) Street Trees. In most cases, this will be two different varieties of trees. Consult the Street Tree Plan carefully.
- 01.5. Lots on cul de sacs have a narrower frontage and may not, in all cases, accommodate two Street Trees. Follow the guidelines in paragraph 01.6 below and provide Street Trees at the proper and appropriate spacing.
- 01.6. STREET TREES shall be spaced at approximately forty (40) feet on center, but no less than thirty (30) feet from a street tree in front of an adjoining lot.
- 01.7. STREET TREES shall be planted twenty (20) feet from any street intersection. This is to be measured from the point of intersection between the street curb and the sidewalk.
- 01.8. STREET TREES shall be a minimum one inch (1") caliper in size when planted. (Caliper is the diameter of the trunk measured twelve (12) inches above the top of the root ball.)
- 01.9. Any damaged or diseased STREET TREES are to be replaced by the homeowner at his sole cost and expense.

EXHIBIT "C"
DESIGN GUIDELINES

Dwelling Size:

- 1300 square feet for a rambler
- 1500 square feet for a multi-level or two-story dwelling

Exterior Materials:

- All dwellings shall be constructed of 100% masonry (masonry is defined as brick, rock, stone, stucco and "hardie-plank").
- All homes shall have a brick, rock or stone wainscot. All wainscot shall have a minimum 2-foot return around the front corners of the dwelling.

Streetscape/Landscaping:

- Ivory will prepare a street tree plan for all rights-of-way in the subdivision. (Tree planting and species shall be coordinated with the City Parks Department.)
- Ivory will provide each home owner with a landscaping voucher for sod, and planting materials including street trees.

Setbacks:

- All dwelling setbacks shall be in accordance with West Valley City Ordinances.

Fencing:

- Fencing around residential lots is permitted. Fences shall be constructed of vinyl, masonry or wood products.
- No chain link fencing is allowed.
- Fencing in the front setback is discouraged. However, decorative fencing such as wrought iron, masonry, and select types of vinyl are allowed in the front setback and shall comply with City height standards.