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DECLARATION OF COVENANTS AND RESTRICTIONS
OF THE CEDAR HIGHLANDS SUBDIVISION

LOCATED IN
IRON COUNTY, UTAH

DECLARATION OF COVENANTS AND RESTRICTIONS
OF THE CEDAR HIGHLANDS SUBDIVISION

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DECLARATION OF COVENANTS AND RESTRICTIONS
OF THE CEDAR HIGHLANDS SUBDIVISION

THIS DECLARATION, made this 6th day of September, 1991, by Cedar Highlands Development Corp., Inc., hereinafter called "Developer."

PREAMBLE

A. Developer is the owner of the real property described in Article II of this Declaration and desires to create thereon a recreational, residential community with common areas, open spaces and other common facilities for the benefit of the said community; and,

B. Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of said common areas, roads, open spaces and other common facilities to this end, desires to subject the real property described in Article II together with such additions as may hereafter be made thereto (as provided in Article VII-3 to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and,

C. Developer has deemed it advisable, for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated the powers of maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and,

D. Developer has incorporated under the laws of the state of Utah, as a non-profit corporation, THE CEDAR HIGHLANDS HOMEOWNERS ASSOCIATION for the purpose of exercising the above functions aforesaid; and,

E. Developer hereby declares that all of the property described in Article II hereof, and such additions thereto, as may hereafter be brought within the terms of this declaration shall be held, occupied, sold or conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall insure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

(a) “Association” shall mean and refer to THE CEDAR HIGHLANDS HOMEOWNERS ASSOCIATION, its successors and assigns.

(b) “The Properties” shall mean and refer to the real property described in Article II and such additions thereto as may hereafter be brought within the terms of this Declaration, or Supplemental Declaration.

(c) “Common Properties” shall mean and refer to those areas of land designated as common areas on the property described in Article II and such other additions thereto as may hereafter be brought within the terms of the Declaration.

(d) “Developer” shall mean and refer to Cedar Highlands Development Corp., Inc., its successors and assigns.

(e) “Lot” shall mean and refer to any plot of land shown upon any recorder subdivision map of The Properties with the exception of Common Properties as heretofore defined.

(f) “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot situated upon The Properties, including contract sellers, but, notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgages unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

(g) “Member” shall mean and refer to all those Owners who are members of The Association as provided in Article IV, Section 1, hereof.

(h) “Mortgage” shall mean the conveyance of an interest in any lot or other portion of The Properties to secure the performance of an obligation, which conveyance shall be void upon the due performance of said obligation.

(i) “Mortgagee” shall mean a person or entity to whom a Mortgage is made.

(j) “Institutional Lenders” shall mean a savings and loan, bank, insurance company, real estate trust, mortgage and pension trust, savings and mutual banks, pension funds, and other similar institutions. In this “Declaration”, or the Article or the By-Laws of the Association, where it refers to approval of two-thirds (2/3) of the institutional lenders, it shall mean approval by institutional lenders holding mortgages on two-thirds (2/3) of the lots covered by institutional mortgages.

(k) "Mortgagor" shall mean a person or entity who mortgages his or its property to another, i.e., maker of a Mortgage; and

(l) Wherever the words "Deed or Trust" is used herein it shall mean and be synonymous with the word "Mortgage" and the same may be used interchangeably with the same meaning; and likewise the "Mortgagor" and the word "Beneficiary" shall be synonymous with the word "Mortgagee".

(m) "Sale" shall mean the recordation of a Grant, Bargain and Sale Deed to convey title to a new Owner.

(n) "Assessment Period" shall mean the initial term and the subsequent annual periods as set forth in Article V, Section 3 of this instrument.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

ADDITIONS THERETO

Section 1. Existing Property. The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Iron County, State of Utah, and is particularly described on Exhibit "A" attached hereto and made a part thereof, all of which is real property shall hereinafter be referred to as "Existing Property".

ARTICLE III

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment.

Every Owner shall have a right and easement of enjoyment in and to the common area which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the common area, and to reasonably limit the number of guests of owners;

(b) The right, after notice of hearing, of the Association to suspend the voting rights and title to use of the common properties and recreational facilities that may be located thereof by an Owner for any period during which any assessment against his lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

(c) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed by the members.

No such dedication or transfer shall be effective for a period of five (5) years from the date of the recording of this Declaration and thereafter it shall not be effective unless an instrument signed by two-thirds (2/3) of the members agreeing to such dedication or transfer, has been recorded;

(d) The right of Developer and its sales agents and representatives, in addition to the rights set forth in Article X hereof, to the non-exclusive use of the common areas and facilities for maintenance of sales facilities, display, and exhibit purposes.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the common areas and facilities to the members of his family, his tenants, or contract purchasers who reside on the property. Such delegation shall then exclude the owner during the term of said delegation.

Section 3. Title To Common Areas. Developer covenants that it will convey title to the common areas to the Association prior to or concurrently with the conveyance of the first Lot to a purchaser from Developer.

Section 4. Encroachments. If any portion of the Common Properties shall encroach upon any Lot, or if any Lot shall encroach upon any other Lot or upon any portion of the Common Properties as a result of the construction of a building, engineering errors, or as a result of settling or shifting of a building, a valid easement for the encroachment and for its maintenance shall exist so long as the building stands. In the event a building, any adjoining building, or any adjoining common element shall be partially or totally a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, and then rebuilt, any resulting encroachment of a part of the common elements upon any Lot or of any Lot upon any other Lot or upon any part of the common elements shall be permitted, and a valid easement for such encroachments and for its maintenance shall exist so long as a building stands.

Section 5. Enforcement of these Declarations. The Association, or any Owner, shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS THEREOF

Section 1. Membership of the Association. Every owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. In addition, the four original members of the Board of Trustees of the Association are members; but only until such time as they are replaced. Each shall be entitled to one vote as a Class A member.

Section 2. Classes of Voting Membership. The Association shall have two (2) classes of voting membership.

Class A. Class A members shall be the original members of the Board of Trustees and all lot owners with the exception of the Developer and shall be entitled to one vote for each Lot owner. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Developer and shall be entitled to three (3) votes from each Lot owner. The Class B membership shall cease and be converted to Class A membership on the happening of the following event: When the total votes outstanding in the Class A membership equal the total vote outstanding in the Class B membership.

Section 3. Use and Delegations of Rights of Enjoyment of Common Areas.
Each member shall be entitled to the use and enjoyment of the Common Areas and

facilities as provided in the Declaration. Any member may delegate his rights of enjoyment of the Common Areas and facilities to members of his family who reside with him or to his tenants or contract purchasers who reside on his Lot provided that no member shall be reimbursed for any privileges which he may delegate or grant to others by virtue of his membership.

Section 4. As set out above, the voting power of the members is unequal.

Section 5. Suspension of Membership. During any period in which a Member shall be in default in the payment of any annual or special assessment levied by the Association, the voting rights and right to use of the common areas and recreational facilities of such member shall be suspended until such assessment has been paid. Such rights of a Member shall also be suspended, after notice and hearing, for a period not to exceed sixty (60) days, for violation of any rules and regulations established by the Board of Trustees governing the use of the Common Areas and Facilities.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments.

Each owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, and (3) special maintenance assessments, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees shall be a charge on the land, superior to any Declaration of Homestead, and shall be a

continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the properties and for the improvement and maintenance of the common areas and services including, but not limited to, roads, water system and fire protection.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an owner, the maximum annual assessment shall be ONE HUNDRED TWENTY DOLLARS (\$120.00) per lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an owner, the maximum annual assessment may be increased each year not more than fifteen per cent (15%) above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an owner, the maximum annual assessment may be increased above fifteen per cent (15%) by the vote or written assent of fifty one percent (51%) of the members voting.

(c) The Board of Trustees may fix the annual assessment of any amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements.

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or part, the cost of any construction, re-construction, repair or replacement of a capital investment upon any common area, including fixtures and personal property related thereto, provided that any such assessment shall have the vote or written assent of two-thirds (2/3) of the members voting.

Section 5. Special Maintenance Assessments. The Association shall have the authority to perform and to levy an assessment upon any Lot for maintenance and repair on any Lot reasonably required to protect any common areas and preserve the appearance and value of the property if the owner has failed or refused to perform said maintenance and repairs after thirty (30) days written demand from the Board of Trustees to do said maintenance or repair.

Section 6. Notice and Quorum For Any Action Authorized Under Article IV, Section 3 and 4 or Article XII, Section 1 and 2 and Article VII, Section 3. Any action authorized under Article IV, Section 3 and 4 or Article XII, Section 1 and 2 and Article VII, section 3 shall be taken at a general or special meeting, written notice of which shall be sent to all members not less than ten (10) days, nor more than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty per cent (60%) of all the votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, then another meeting may be called, subject to the same notice requirements as set forth herein and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting (meaning a quorum is one-half (1/2) of sixty

per cent (60%) of the members, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 8. Date of Commencement of Annual Assessments: Due Dates. On the first date of the month following the initial conveyance of a Lot, the first annual assessment provided for herein shall commence as to that Lot.

The first annual assessment shall be adjusted according to the number of months remaining in a calendar year. The Board of Trustees shall fix that amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment. Written notice of the annual assessments shall be sent to every owner subject thereto. The due dates shall be the 1st of the month after date of purchase of the Lot. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. All transfers of property after the first sale must be checked by the transferring agent to verify if the assessment is paid current, and if not, must be paid to and brought current with the Association at time of transfer or sale.

Section 9. Effect of Nonpayment of Assessments: Remedies. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of fifteen per cent (15%) per annum. Suit to recover a money judgment for unpaid assessments may be maintained against the owner personally obligated to pay the same without foreclosing or waiving the lien securing said assessment. The Association may enforce the lien in accordance with the provisions of

Utah law applicable to exercise the power of sale and Deeds of Trust, or by civil suit or any other manner permitted by law.

The Association through duly authorized agents shall have the power to bid on the Lot at any such sale and to hold, lease, mortgage and convey the same. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common area or abandonment of his Lot. If any suit or action is brought to collect any such charge, then there shall be added to the amount thereof costs of suit and reasonable attorney's fees to be fixed by the court and included in any Judgment in any such suit or action.

Section 10. Notice of Lien. No action shall be brought by the Association to foreclose said assessment lien or to proceed under the power of sale herein provided until thirty (30) days after the date of notice of claim of lien is deposited in the United States mail, certified or registered, postage prepaid, to the owner of said lot, and a copy thereof is recorded by the Association in the office of the County Recorder in which the properties are located; said notice of claim shall contain a sufficient legal description of any such Lot, the record owner or reputed owner thereof, the amount claimed (which may at the Association's option include interest on the unpaid assessment at the legal rate, plus reasonable attorney's fees and expense of collection in connection with the debt secured by said lien), and the name and address of the Association. Upon the timely curing of any default for which a notice of claim or lien was filed by the Association, any two of the officers thereof are hereby authorized to file or record, as the case may be, an appropriate release of such notice, upon payment by the defaulting owner of a reasonable fee, to be determined by the Association, to cover the costs of preparing and filing or recording of such release.

Section 11. Subordination of the Lien to Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosures or any proceeding in lieu thereof shall extinguish the lien of such assessment as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 12. Mortgage Protection. No breach of the covenants, conditions or restrictions in this Declaration, nor the enforcement thereof or of any lien provision herein, shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value. However, all of the covenants, conditions and restrictions in this Declaration shall be binding upon any Owner whose title is derived through foreclosure or exercise of a power of sale, or otherwise.

Section 13. Notices to Mortgagees. The Board shall give thirty (30) days prior written notice to each Mortgagee represented in the real property of (I) any amendment or alteration of the Declaration, the By-Laws or the Articles; and (II) any change of Manager or the real property. In addition, the Board shall give each Mortgagee, who represents same in writing, a copy of notices of liens filed against any Lot.

Section 14. Right of Inspection.
Any institutional lender of first mortgage lien shall have the right (I) to inspect the books and records of the Association during normal business hours; (II) to receive an annual audited financial statement of the Association within ninety (90) days following the end

of any fiscal year of the Association; and (III) upon request, to written notice of all meetings of the Association and to designate a representative to attend all such meetings.

ARTICLE VI

ARCHITECTURAL CONTROL

Section 1. Approval Required. No building, fence, wall or other structure shall be commenced, erected, painted, or maintained upon the properties, nor shall any exterior addition to or change or alteration therein be made or any building permit applied for, until the plans and specifications showing the nature, kind, shape, height, color, materials, and specific location of the same shall have been submitted in writing to the Architectural Review Committee and approved in writing as to harmony of external design and specific location in relation to surrounding vegetation, structures and topography. In the event the Committee fails to approve or disapprove such design and location within thirty (30) days after the plans and specifications have been received by it, approval will not be required and this Article will be deemed to have been fully complied with.

Section 2. Architectural Review Committee. An Architectural Review Committee is hereby authorized with the rights and powers set forth herein. The Architectural Review Committee shall consist of three members, Kent H. Stapley, Neil L. Rhodes of Cedar City, Utah and Scott M. Bulloch of St. George, Utah. A majority of the committee may designate a representative to act for it. In the event of the failure or inability to act of any member of said committee, the Trustees of the Association shall designate a successor. Notwithstanding the foregoing, Developer shall have the right and power at all times to appoint or

remove any or all members of said committee or to fill any vacancy. Developer may in its discretion and at any time assign by written assignment its powers of removal and appointment with respect to said committee to the Association, subject to such terms and conditions with respect to the exercise thereof as Developer may impose. Neither the members of the committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. On the earlier of the date ninety (90) per cent of the Lots in the properties subject to the Declaration are sold, or the date five (5) years following recordation of this Declaration, the members of said committee may be removed by the Association and new members selected by the Association. No member of the committee shall be liable to any person for his decisions or failure to act in making decisions as a member of said committee.

ARTICLE VII

GENERAL PROVISIONS

Section 1. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force.

Section 2. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by an instrument signed by not less than two-thirds (2/3) of the Lot owners, and shall require the approval of two-thirds (2/3) of the institutional lenders. Any amendment must be recorded.

Section 3. (a) Annexation. Additional residential property and common area, other than the property described on Exhibit "A" may be annexed to the properties with the consent of two-thirds (2/3) of the members voting.

(b) Staged Developments. Additional land within the area described in Exhibit "A" may be added by the developer without consent of members. The property added shall automatically become subject to these covenants and Lot owners shall automatically become members of "The Cedar Highlands Homeowners Association". Thereafter, the rights and obligations of all owners of lots located in the added territory shall be the same as the rights and obligations of the owners of Lots affected in this Declaration.

ARTICLE VIII

USES PERMITTED AND PROHIBITED

In addition to all other covenants contained herein, the use of the properties and each lot therein are subject to the following:

Section 1. None of the Lots shall be used except for residential or recreational purposes. No building shall be erected, altered, placed or permitted to remain on any such Lot other than a single family dwelling, or architectural committee approved recreational pavilion, and no such building shall exceed the height above ground level as originally constructed. See exceptions allowed in Section 9 below.

Section 2. No Lot shall be used or be caused to be used or allowed or authorized in any way, directly or indirectly, for any business, commercial, civic, manufacturing, mercantile, storing, vending, or other non-residential purposes which violates the uses permitted by any zoning ordinance applicable to these properties.

Section 3. No sign or billboard of any kind shall be displayed to the public view on any portion of the properties or any Lot except one sign for each building site, of not more than eighteen inches by twenty-four inches (18" X 24"), advertising the property for sale, or rent, or except signs used by Developer, its successors or assigns, to advertise the property during the construction and sales period.

Section 4. No dwelling shall be permitted on any Lot at a cost of less than \$20,000.00 excluding the Lot, based upon the cost levels prevailing on the date these covenants are recorded, it being the intention and purpose of the covenant to assure that all dwellings shall be of a quality of workmanship and materials substantially the same or better than that which can be produced on the date these covenants are recorded at the minimum cost stated herein for the minimum permitted dwelling size. The ground floor area of the main structure, exclusive of on-story open porches and garages, shall be not less than 640 square feet.

Section 5. No building shall be located on any Lot nearer than twenty-five (25) feet to the front Lot line, or nearer than twenty (20) feet to any side street line. No building shall be located nearer than eight (8) feet to an interior lot line, except that no side yard shall be required for a garage or other permitted accessory building located forty-five (45) feet or more from the minimum building setback line. No dwelling shall be located on any interior lot nearer than thirty (30) feet to the rear lot line. For the purpose of this covenant, eaves, steps, and open porches shall not be considered as a part of a building, provided however, that this shall not be construed to permit any portion of a building, on a lot to encroach upon another lot.

Section 6. No dwelling shall be erected or placed on any lot having a width of less than 80 feet at the minimum building setback line nor shall any

dwelling be erected or placed on any lot having an area of less than one-half acre.

Section 7. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material 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 the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the Lot except for those improvements for which a public authority or utility company is responsible.

Section 8. No noxious or offensive activity shall be carried on or upon any Lot or any part of the properties, nor shall anything be done thereon which may be or may become an annoyance or nuisance, public or private, to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the owners of his respective dwelling unit, or which shall in any way increase the rates of insurance. Exterior landscaping must be approved by the architectural Review Committee so as to best utilize the culinary water available.

Section 9. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other building shall be used on any lot at any time as a permanent dwelling. For a period of time not exceeding two years, recreational vehicles, including trailers and campers, may be used on the lot by the owner while constructing a permanent dwelling. Such recreational vehicles shall only be used which are self-contained or which utilize portable waste

disposal units. In no event will overnight use be allowed where there is not an existing septic tank installed in conjunction with a permanent dwelling or either a self-contained recreational vehicle or portable waste disposal system utilized. Waste disposal must be deposited in a septic tank or waste disposal station.

No garage or carport may be converted to a living area. No unoccupied recreational vehicles, including trailers and campers, shall be allowed to remain on any Lot over the winter season.

Section 10. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except for dogs or cats or other household pets, and corralled or fenced horses. The number of animals and the manner in which they must be kept must be approved by the architectural Review Committee prior to the location of the animals on any Lot, in addition to any State or local requirements regarding the keeping of the same. Provided further that said dogs and cats are leashed at all times that they are outside dwelling units. Notwithstanding the foregoing, no animals or fowl may be kept on the properties which result in an annoyance or are obnoxious to residents in the vicinity and in any event, any Lot owner shall be absolutely liable to each and all remaining owners, their families, guests, and invitee, and to the Association for any and all damage of property caused by any animals upon or kept upon the lots or the common properties by any Lot owner or by members of his family, guests or invitee.

Section 11. No fences, ornamental screens, awnings, screen doors, patio covers, sunshades, walls or hedges shall be erected or permitted upon the properties, except such

as are installed in accordance with the initial construction of the buildings and improvements or as approved by the Architectural Review Committee. No building, including out-buildings, patios, fences and porches shall be erected, placed, or altered on any Lot unless the construction plans and specifications and a plan showing the exact location of the structure or improvements have been approved in writing by the Architectural Review Committee as to quality of workmanship and materials, harmony of external design with existing structure or structures and as to location. The exterior color scheme of any building shall be subject to the prior approval of the Architectural Review Committee. The prohibitions set forth herein shall not apply to initial construction of the buildings and improvements by the Developer.

Section 12 Missing

Section 13. Each owner of a Lot shall pay any real and personal property taxes or charges assessed against his respective lot, and the utility charges for said lot, and all costs of maintaining said lot and dwelling unit.

Section 14. The respective lots shall not be rented by the owners thereof for transient or hotel purposes which shall be defined as (a) rental for any period of less than thirty (30) days; or (b) any rental if the occupants of the Lot are provided customary hotel services, such as, room service for food and beverages, maid service, furnishing laundry and linen, and bellboy service. Other than the foregoing obligations, the owners of the respective lots shall have the absolute right to lease same, provided that said lease is made subject to the Covenants and Restrictions, conditions and limitations and uses contained in this Declaration, and further subject to the Articles of Incorporation and the By-laws of the Association. Any failure of the Lessee to comply with the Declaration,

Articles or By-Laws shall constitute a default under the Lease. All leases shall be in writing and a copy shall be filed with the Association upon execution.

Section 15. Each owner of a lot shall maintain the improvements so that the same shall at all times remain in the same condition as such improvements were at the time the owner occupied the same, reasonable wear and tear excepted. In the event any Lot owners fail to maintain the same as hereinbefore provided. **(Incomplete Sentence)**

Section 16. Any member may delegate in accordance with the By-Laws of the Association, his right of enjoyment of the common areas and the facilities to the members of his family, his tenants or contract purchasers who reside on the property provided that the member notifies the Association in writing to whom his rights are being relinquished in favor of.

ARTICLE IX

REGULATION OF WATER SUPPLY AND DISTRIBUTION SYSTEM

The right and duties of the Homeowners Association with respect to maintenance and operation of the water supply and distribution system for Cedar Highlands Subdivision and future annexations shall be as follows:

Section 1. Spring Protection Zone. Maintain the spring protection zone approved by the Utah State Department of Health letter dated June 26, 1981 regarding Cedar Highlands Subdivision Feasibility Review. A copy of aforementioned letter is on file at Bulloch Brother's Engineering, Inc., Cedar City, Utah.

Section 2. Watermaster. If deemed necessary by the Homeowners Association it shall appoint a watermaster, whose term as such shall continue for one year unless sooner

relieved of such office by order of the Board of Directors, or by his resignation. His duties shall be to make repairs to the water system, or cause the same to be done, when so authorized and directed by the Board of Directors, to keep the system in a state of maintenance and attend to such other duties as shall be assigned to him by said Board; and subject to the approval of the President or such other person as the Board may designate, or by the Board itself, to employ any necessary assistants and labor, and to discharge any person so employed. The watermaster shall act as such only so long as the said Board may designate and may be removed by such Board at any time, with or without cause. The watermaster shall, as may be required by the Board at any time, or by the President, file a report in writing or make a report orally, whichever is requested, of the activities of the watermaster and the condition of the water system, or such other matters concerning said system as may be requested, and at the same time the said watermaster may make such suggestions for the improvement and betterment of the water system as he shall deem for the best interest of the Homeowners Association and its members; and shall perform such other duties as the President of the Homeowners Association of the Board may require.

Section 3. Use of Water. All water being furnished shall be used in reasonable quantities, and water shall not be permitted to become wasted or used when not reasonably needed. Extensive use or waste of water by lot owners may require installation of water meters at discretion of water company or developer. Water meters will be purchased at sole expense of individual lot owners. At the time a water service request is made, a one time connection fee of \$200.00 will be charged to the lot owner. Outside watering will not be permitted on any lot.

Section 4. Individual Wells and Springs. No individual well will be allowed on the subdivision. Existing springs or seeps are not conveyed or implied to be a part of any given lot.

Section 5. Water Connection. Each Lot owner shall have the right to hook-up to the water system provided that they have paid the required connection fees as determined by the Homeowners Association.

Section 6. Equal Rights. Excepting as otherwise provided in these covenants, all members shall be on an equal basis with equal rights to the use of water.

Section 7. Control of Water System and Distribution. The Homeowners Association acting through its duly authorized agents and employees shall be in the exclusive and full control over the entire water system.

Section 8. Capital Improvements. The Homeowners Association shall have the right and privilege of making such capital improvements as in its discretion may, from time to time, be deemed necessary in order to maintain a reasonably efficient water distribution system.

Section 9. Division of Lots. Any Lot owner who wishes to re-divide his lot as hereinbefore provided, in addition to conditions previously set forth, shall obtain Iron County approval, acquire additional water rights and then shall obtain approval, pay connection fees and meet all other conditions imposed by the Homeowners Association before water service can be provided to the re-divided lot(s).

Section 10. Access by the Developer. The Subdivision Developer shall have unlimited access and right-of-way to the spring areas and the common areas including roadways for the purpose of expansion of the water system including additional spring development, additional storage facilities, water line installation and other functions

necessary for the full development of Cedar Highlands Subdivision and adjacent properties planned for development.

Section 11. Water Rights. Cedar Highlands Homeowners Association shall be entitled to sufficient water from the springs located in the common areas to fully satisfy the Utah State Department of Health Standards for Summer home requirement. The amount shall be limited to service for 165 lots. All water rights in excess of the amount are owned by the Subdivision Developer and may be utilized for future development or other purposes at the sole discretion of the Developer. Any modifications of the Cedar Highlands water supply and distribution system that are required for utilization of the surplus water shall be submitted to the Utah State Department of Health for approval and the cost of modifying the system shall be the sole responsibility of the Developer.

Section 12. Operation of the Water Supply and Distribution System. Operation of the water supply and distribution system shall be by the Cedar Highlands Home Owners Association as set forth in the By-Laws of the Cedar Highlands Homeowners Association, a non-profit corporation of the State of Utah. In the event any portion of said connection or line is damaged or destroyed through the act of an owner or his agents or guests, depriving any of the other owners being served or any of his agents or guests being served, then said owner shall proceed to repair or replace the same immediately without cost to other owners. In the event any portion of said connection or line is damaged or destroyed by other cause, the Homeowners Association shall be responsible for the cost of repair or replacement.

ARTICLE X

DUTIES AND OBLIGATIONS OF THE ASSOCIATION

Section 1. Duties of the Association. In addition to the powers delegated to it by its Articles of Incorporation, and without limiting the generality thereof, the Association shall:

(a) Have the power at any time, without liability to any owner, to enter upon any lot and the exterior of any dwelling unit, fence or wall subject to this Declaration for the purpose of enforcing any and all of the provisions of this Declaration, the Association shall also have the power in its own name to maintain actions to enjoin any breach or threatened injunction or otherwise, all of the provisions of this Declaration:

(b) Own, maintain and otherwise manage all of the common properties, water system, and all facilities, improvements thereon, and all private streets and all alleys and all property acquired by the Association:

(c) Pay any and all real and personal property taxes and other charges assessed against the common properties:

(d) Have the authority to obtain, for the benefit of all the common properties, all water, gas, electric power, and refuse collections; nothing contained in this subparagraph shall be construed to impose any obligation on the Association to remove garbage or rubbish from any individual residence;

(e) Grant easements where necessary for utilities and sewer facilities over the common properties to service the common properties and the lots;

- (f) Maintain a policy or policies of liability insurance, insuring the Association and its officers in an amount to be established by the Homeowners Association, for any personal injury and in an amount to be determined by the Homeowners Association for property damage. Said limits shall be reviewed at intervals of not less than three (3) years and adjusted if necessary to provide such coverage and protection as the Association may deem prudent;
- (g) Maintain a policy or policies of fire and such other casualty insurance, to the full insurable value, as the Association may deem necessary upon all of the improvements upon the common properties with such companies as the Association may determine, which policies shall, among other things, provide for a Loss Payable Endorsement to the Association. Upon the occurrence of any casualty loss resulting in damage to any of said improvements, the Association shall, using such proceeds as are available to it from such insurance policies, immediately cause said improvement to be re-built so as to restore them as nearly as possible to their original condition;
- (h) Maintain Workman's Compensation Insurance to the extent necessary to comply with any applicable law;
- (i) Maintain its funds in a trust account and render an annual accounting, prepared and certified by an independent Certified Public Accountant, to its members;
- (j) Establish and publish such general Rules and Regulations as the Association may deem reasonable in connection with the use and maintenance of all of the properties, such Rules and Regulations may be altered and amended from time to time as the Association may see fit. A copy of such rules and Regulations shall be:

(1) Maintained in the office of the Association and may be available for inspection at all reasonable times.

(2) Posted in a conspicuous place on the common properties.

The Rules and Regulations shall be binding upon each and every Owner upon the happening of any of the foregoing. No changes or amendments in said Rules and Regulations shall be effective until forty-eight (48) hours after the distribution and posting of such changes and amendments in the manner above provided for the distribution of the Original Rules and Regulations.

(k) In its discretion, employ any agent or agents, and enter into contracts for the purpose of performing any and all of the foregoing duties on its part to be performed, provided, however, that any management body or agent selected prior to the first annual meeting of the members of the Association shall be employed to manage only until such first annual meeting , at which time the continuance of the same or the selection of another management body or agent shall be determined by a majority vote of the members present and voting at such annual meeting. In no event shall the Association enter into any contracts which shall bind it for a period in excess of one (1) year, unless reasonable cancellation provisions are included in the contracts;

(l) Its agents shall have the rights of ingress and egress in and to all the lots for the above purposes.

ARTICLE XI

LIMITATIONS OF RESTRICTIONS ON DEVELOPERS

Developer is undertaking work of developing springs, constructing water storage tanks and installation of water distribution system to provide sufficient culinary water to

the Lot owners in the amount required by the State of Utah, and establishing roadways within the subdivision. The completion of that work and the sale, rental and other disposal of said residential lots is essential to the establishment and welfare of the properties as a residential and recreational development. In order that the work may be completed and the properties be established as a residential and recreational development as rapidly as possible, nothing in this Declaration shall be understood or construed to:

Section 1. Prevent Developer, its contractors, or subcontractors from doing on the properties or any lot thereof, whatever is reasonably necessary or advisable in connection with the completion of said work; or

Section 2. Prevent Developer or its representatives from erecting, constructing and maintaining on the properties, such structures as may be reasonably necessary for the conduct of its business of completing the work and disposing of the same by sale, lease or otherwise; or

Section 3. Prevent Developer from maintaining such signs on the properties as may be necessary for the sale, lease or disposition thereof.

Section 4. Developer shall have the right at any time prior to acquisition of title by the purchaser from Developer to amend this Declaration and at any time have the right to establish on the properties additional easements, reservations and rights of way to itself, to utility companies, or to others as may from time to time be reasonably necessary to the property development and disposal of the properties. Developer or the organization for whose benefit said easements, reservations, and rights of way have been established shall have the right at any time to cut and remove any trees or branches or any other unauthorized object from such easements, reservations and rights of way.

ARTICLE XII

ADDITIONAL PROVISIONS

Section 1. Financing Improvement of the Common Areas and Facilities. The Association shall have the right in accordance with its Articles and By-Laws, to borrow money for the purpose of improving common areas and facilities, and the incidentals thereto with the approval of two-thirds (2/3) of the membership voting and two-thirds (2/3) of the institutional lenders, and to mortgage said common areas and facilities.

Section 2. Mergers and Consolidations. To the extent permitted by law, the Association may participate in mergers and consolidations with other non-profit organizations on property outside of the property described on exhibit "A", provided that any merger or consolidation shall have the assent by vote of two-thirds (2/3) of members voting, in person or by proxy at a meeting duly called for this purpose.

Section 3. Severability of Membership in the Association from Ownership of a Lot. No Purchasers or owner of any Lot shall convey his interest in any such lot separately from his membership in the Association and no member of the Association shall convey or otherwise dispose of his membership rights in the Association without at the same time conveying his interest in the Lot to which his membership attaches. Membership shall be transferred by the Association only to a new owner of the Lot to which membership attaches. A Tenant of an owner shall not be a member of the Association but the tenant of an owner shall have the right to use the facilities of the

Association in the same manner as if he were an owner, if the owner has assigned in writing with a copy to the Association, his right to same during the period of the tenancy.

Section 4. Reciprocal Easements. Reciprocal easements are hereby reserved for the benefit of adjoining lot owners for the control maintenance and repair of utilities of adjoining lot owners.

Section 5. Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of community recreational facilities and community areas. Failure to enforce any provision hereto shall not constitute a waiver of the right to enforce said provision or any other provisions hereof.

Dated This 6th Day of September, 1991

Cedar Highlands Development Corp. INC.

By: Neil L. Rhodes, President

By: Kent H. Stapley, Secretary