

Recorded at the request of:
CEDAR HIGHLANDS HOMEOWNERS
ASSOCIATION, INC.

After recording mail to:
CEDAR HIGHLANDS HOMEOWNERS
ASSOCIATION, INC.
1702 N. BULLDOG RD., UNIT 113
CEDAR CITY UT 84721

Record against the property described in Exhibit "A"

**AMENDED AND RESTATED DECLARATION OF COVENANTS AND
RESTRICTIONS OF THE CEDAR HIGHLANDS SUBDIVISION**

LOCATED IN
IRON COUNTY, UTAH

**AMENDED AND RESTATED DECLARATION OF COVENANTS AND
RESTRICTIONS OF THE CEDAR HIGHLANDS SUBDIVISION**

TABLE OF CONTENTS

Page Number

	<u>PREAMBLE</u>	<u>1</u>
ARTICLE I	DEFINITIONS	2
ARTICLE II	PROPERTY SUBJECT TO THIS DECLARATION	4
ARTICLE III	PROPERTY RIGHTS	4
ARTICLE IV	MEMBERSHIP AND VOTING RIGHTS THEREOF	7
ARTICLE V	COVENANT FOR MAINTENANCE ASSESSMENTS	8
ARTICLE VI	ARCHITECTURAL CONTROL	14
ARTICLE VII	GENERAL PROVISIONS	15
ARTICLE VIII	USES PERMITTED AND PROHIBITED	16
ARTICLE IX	REGULATION OF WATER SUPPLY AND	
	DISTRIBUTION SYSTEM	21
ARTICLE X	DUTIES AND OBLIGATIONS OF THE ASSOCIATION	25
ARTICLE XI	LIMITATIONS OF RESTRICTIONS OF DEVELOPERS	27
ARTICLE XII	ADDITIONAL PROVISIONS	29

To the greatest extent permitted under Utah law, this Amended and Restated Declaration of Covenants and Restrictions of the Cedar Highlands Subdivision (herein “Amended and Restated Declaration” or “Amended Declaration” or “Declaration”)¹ restates, amends, wholly replaces and substitutes the following:

1. DECLARATION OF COVENANTS AND RESTRICTIONS OF THE CEDAR HIGHLANDS SUBDIVISION, recorded as Entry No. 232966, Bk 286 Pg 636-666, on January 25, 1982, in the Official records of the Iron County Recorder, State of Utah (“1982 Declaration”);

2. DECLARATION OF COVENANTS AND RESTRICTIONS OF THE CEDAR HIGHLANDS SUBDIVISION, recorded as Entry No. 0309437, Bk 0437 Pg 0005-0038, on September 9, 1991, in the Official records of the Iron County Recorder, State of Utah, including any amendments thereto (herein the “Original Declaration”);

3. ~~THIS AMENDMENT TO THE~~ DECLARATION, ~~made~~ OF COVENANTS AND RESTRICTIONS OF THE CEDAR HIGHLANDS SUBDIVISION, recorded as Entry No. 0316525, Bk 0451 Pg 0924, on May 27, 1992, in the Official records of the Iron County Recorder, State of Utah (“1992 Amendment”); and

4. Any and all supplements or amendments to the 1982 Declaration, Original Declaration, 1992 Amendment, or any of the foregoing prior to the date of this ~~day of~~, 1991, by Amended and Restated Declaration, whether or not such were recorded in the records of the Iron County Recorder, State of Utah.

RECITALS

WHEREAS this Amended and Restated Declaration shall be recorded against all of the real property identified in Exhibit “A” hereto (hereinafter “Cedar Highlands Development Corp., Inc., hereinafter called “Subdivision” or “Project”).

WHEREAS as identified in the Original Declaration, at relevant times, the Developer”.

PREAMBLE

acted as the owner/developer and Declarant for the Cedar Highlands Subdivision and conveyed the Lots within the Cedar Highlands Subdivision subject to certain protective covenants, conditions, restrictions, reservations, assessments, charges, and liens. The Developer also conveyed or dedicated the Common Area to the Cedar Highlands Homeowners Association, Inc., which is ~~the owner of the real property described in Article II of this Declaration and desires~~ a Utah nonprofit corporation (“Association”) organized and governed

¹ Capitalized terms in the PREAMBLE or RECITALS portions of this Amended and Restated Declaration shall have the same meaning as defined in the PREAMBLE or RECITALS, or as defined in Article I of this Amended and Restated Declaration.

by the Utah Revised Nonprofit Corporation Act to administer the affairs of the Cedar Highlands Subdivision. Each Owner of a Lot within the Cedar Highlands Subdivision is a Member of the Association.

A.—WHEREAS all of the real property defined as part of the Cedar Highlands Subdivision was subjected to the terms of the Original Declaration with the intent and desire to create thereon a recreational, residential community with common areas, open spaces, and other common facilities for the benefit of the said community; and,

~~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, ~~the~~ 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, pursuant to the Original Declaration, as amended from time to time.~~

~~B.—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,~~

~~Developer hereby declares that all of the~~ WHEREAS to provide further clarity of the rights and obligations of the Association and the Owners, the Association desires to amend and update the Original Declaration, to reflect the evolving needs of the Owners and the community, to ensure compliance with applicable state and local laws, and to clarify that governance of the affairs of the Association and the Cedar Highlands Subdivision is subject to all applicable ordinances, code, rules, and regulations of Iron County and the State of Utah,

including but not limited to: (a) the Community Association Act, Utah Code §57-8a-101, et seq. (the “Community Association Act”); (b) the Utah Revised Nonprofit Corporation Act, Utah Code §16-6a-101, et seq. (the “Nonprofit Act”) (the Community Association Act and Nonprofit Act are collectively referred to as the “Acts”), including any amendments thereto; and subject to (c) Titles 15 and 17 of the Iron County Ordinances, including any other applicable ordinances of Iron County, as amended from time to time (collectively referred to herein as the “Ordinances”). The Acts and Ordinances shall supplement this Declaration. If this Declaration adopts a specific section of the Acts or Ordinances, such amendment shall grant a right, power, and privilege permitted by such section, together with all correlative obligations, liabilities, and restrictions of that section. In the event of a conflict between this Amended and Restated Declaration, the Articles of Incorporation, Bylaws, the Rules and Regulations for the Association, or the Ordinances, this Amended and Restated Declaration shall control.

WHEREAS the Association hereby reaffirms the above dedications and the following covenants as amended and restated in this Amended and Restated Declaration of Covenants and Restrictions of the Cedar Highlands Subdivision.

WHEREAS all of the real property described in ~~Article II hereof, and such additions thereto, as may hereafter be brought within the terms of this declaration~~ Exhibit “A” hereto and defined herein as the Cedar Highlands Subdivision shall be held, ~~occupied, sold or,~~ conveyed, and occupied subject to the following ~~easements, restrictions, covenants and,~~ conditions, ~~which are~~ restrictions, easements, assessments, charges, liens, and to the official plat maps recorded in the official records of Iron County, Utah, including any amendments thereto. This is for the purpose of protecting the value and desirability of, ~~and which~~ The Properties, including without limitation, the privately owned property and Lots, within the Cedar Highlands Subdivision. This Declaration and the Plats shall be construed as covenants of equitable servitude; shall run with, ~~the real property~~ The Properties and be binding on all parties having any right, title, or interest in ~~the described properties~~ The Properties or any part thereof, their heirs, successors, and assigns; and shall ~~insure~~ inure to the benefit of each ~~owner~~ Owner thereof.

WHEREAS this Amended and Restated Declaration shall take effect upon the date it is recorded in the records of the Iron County Recorder, Utah (the “Amendment Date”). All of the real property identified as the Cedar Highlands Subdivision shall be held, sold, and conveyed subject to this Amended and Restated Declaration.

WHEREAS this Amended and Restated Declaration is adopted and approved to be recorded against the Cedar Highlands Subdivision pursuant to Article VII, Section 2, of the Original Declaration, by: (i) not less than two-thirds (2/3) of all the Members, as evidenced by Exhibit “C” of this instrument, which contains the signatures of not less than two-thirds (2/3) of the Owners approving of this Amended and Restated Declaration; and (ii) approval of not less than two-thirds (2/3) of the institutional lenders, pursuant to Utah Code § 57-8a-104.²

² Under Utah Code § 57-8a-104(1)(a), “to amend the governing documents, the governing documents may not require: . . . the vote or approval of lien holders holding more than 67% of the first position security interests secured by a mortgage or trust deed in the association.” Additionally, Under Utah Code § 57-8a-210, the security holder's consent is presumed if: (a) written notice of the proposed amendment or action is sent by

NOW, THEREFORE, the Association hereby adopts the following Amended and Restated Declaration of Covenants and Restrictions of the Cedar Highlands Subdivision (hereinafter the "Declaration") containing covenants, conditions, and restrictions relating to the Cedar Highlands Subdivision which, pursuant to the provisions of the Utah Community Association Act of the State of Utah, shall be enforceable equitable servitudes, and shall run with the land:

ARTICLE I DEFINITIONS

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

(a) "Association" shall~~"Articles"~~ mean and refer to the Association's Articles of Incorporation filed in the Division of Corporations and Commercial Code in the Utah Department of Commerce, as may be amended;

(a)(b) "Association" means and refers to THE CEDAR HIGHLANDS HOMEOWNERS ASSOCIATION, INC., a non-profit corporation organized under the laws of the State of Utah, its successors and assigns;

(c) "Board" means and refers to the Association's Board of Directors, the members of which shall be elected pursuant to the Bylaws and other Governing Documents. Director means a member of the Board. Except as may otherwise be provided, all corporate powers of the Association shall be exercised by or under the authority of, and the business and affairs of the Association managed under the direction of, the Board;

(d) "Bylaws" mean and refer to the Bylaws of the Association, as adopted by the Board or Association, including any amendments thereto. A true and correct copy of the Association's Bylaws are attached hereto as Exhibit "B";

(b)(e) "Cedar Highlands Subdivision," "Subdivision," "The Properties" shall, or "Project" mean and refer to the real property described in Article II Exhibit "A" or the "Plats" and such additions thereto as may hereafter be brought within the terms of this Declaration, or Supplemental Declaration~~supplemental declaration;~~

(e)(f) "Common Area," "Common Areas," or "Common Properties" shall~~mean and refer to those areas of land designated as common area or common areas on the Plats or in this Declaration, including any improvements and facilities upon or within said property described in Article II and, including any such other additions thereto as of common area that may hereafter be brought within and subject to the terms of the Declaration;~~

(d)(g) "Developer" shall~~mean~~means and ~~refer~~refers to Cedar Highlands Development Corp., Inc., together with its predecessors, heirs, successors and assigns. The Developer is no longer in control of the Association and Project and references herein to the Developer are for historical purposes and context;

certified or registered mail to the security holder's address listed for receiving notice in the recorded trust deed or other recorded document evidencing the security interest; (b) 60 days have passed after the day on which notice was mailed; and (c) the person designated for receipt of the response in the notice has not received a written response from the security holder either consenting to or refusing to accept the amendment or action.

Amended and Restated Declaration of Covenants and Restrictions of the Cedar Highlands Subdivision

(h) “Governing Documents” means and includes this Declaration, the Articles, the Bylaws, the Plats, the rules and regulations related to the Cedar Highlands Subdivision, and all other documents identified as governing documents in Utah Code § 57-8a-102 (collectively the “Governing Documents”), as any of the foregoing may be amended from time to time;

~~(e) “Lot” shall mean means and refer refers to any each separately numbered and individually described plot of land shown upon any recorder subdivision map of The Properties with the exception of on the Plats and designated as a Lot for private ownership, but specifically excludes the Common Properties as heretofore defined.~~

~~(f)(i) “Areas. Each Lot is owned in fee simple by the Owner” shall mean and refer to the record owner, whether one or more;~~

~~(g)(j) “Owner” means and refers to the person, persons or entities, of the fee simple title to any lot situated upon The Properties, including contract sellers, but, notwithstanding, or entity that is the owner of record (according to the records of Iron County Recorder, Utah) of a fee simple or an undivided fee simple interest in a Lot within the Cedar Highlands Subdivision. Notwithstanding any applicable theory of relating to a Mortgage, the mortgage term Owner shall not mean or refer to the mortgages include a Mortgagee unless and until such mortgage party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu of foreclosure thereof;~~

~~(h)(k) “Member” shall mean means and refer refers to all those Owners who are member the Members of The Association as provided. Each Owner is a Member of the Association. As used in Article IV, Section 1, hereof this Declaration, the terms “Owner” and “Member” are synonymous;~~

~~(i)(l) “Mortgage” shall mean means and refers to the conveyance of an interest in any lot Lot or other portion of The Properties to secure the performance of an obligation, which conveyance shall will be void upon the due performance of said obligation;~~

~~(j)(m) “Mortgagee” shall mean means and refers to a person or entity to whom a Mortgage is made;~~

~~(k) “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.~~

~~(n) “Institutional Lenders” means and refers to a first position security interest secured by a Mortgage or trust deed on property within the Subdivision;~~

~~(h)(o) “Mortgagor” shall mean means and refers to a person or entity who mortgages his the person’s or its property to another, i.e., the maker of a Mortgage; and~~

~~(p) Wherever the words “Deed” “Plat” or “Trust” is used herein it shall “Plats” mean and be synonymous with refer, collectively and individually as required by the context, to the word “Mortgage” and official Plats for the same may be used interchangeably with Cedar Highlands Subdivision and include;~~

The Official Plat for Cedar Highlands Subdivision, recorded as Entry No. 00309436, on September 9, 1991, in the same meaning; and likewise official records of the “Mortgager” and Iron County Recorder, Utah;

The Official Plat for CEDAR HIGHLANDS SUBDIVISION (AMENDED), recorded as Entry No. 00377989, on April 29, 1997, in the word “Beneficiary” shall be synonymous with official records of the word “Mortgagee” Iron County Recorder, Utah; including any amendments, modifications, additions thereto or any replacements thereof; and

Any and all supplements or amendments to any of the foregoing prior to the date of this Declaration, whether or not such were recorded in the records of the Iron County Recorder, State of Utah;

(q) “Rules and Regulations” or “rules and regulations” mean and refer to all rules and regulations as may be adopted and promulgated by the Board pursuant to the Governing Documents, including any amendments thereto; and

(m)(r) “Sale” shall mean means and refers to the recordation of a Grant, Bargain grant, bargain, and Sale Deed/or 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 defined as the Cedar Highlands Subdivision, located in Iron County, State of Utah, which is identified by the Plats, and which is more particularly described on Exhibit “A” attached hereto and made a part ~~thereof~~hereof, all of which ~~is~~ real property ~~shall hereinafter be~~ referred to ~~as “Existing Property”~~herein as the Cedar Highlands Subdivision.

ARTICLE III

PROPERTY RIGHTS

Section 1. Owners’ Easements of Enjoyment. Every Owner ~~shall have~~has a right and easement of enjoyment in and to the ~~common area~~Common Area, which ~~shall be~~is appurtenant to and ~~shall pass~~passes with the title to ~~every lot~~each 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~~Common Area, and to reasonably limit the number of guests of ~~owners~~Owners upon the Common Area;

(b) The right, ~~after notice of hearing~~, of the Association ~~to suspend the voting rights and title, pursuant and subject to the Acts, including Utah Code § 57-8a-309, to use of terminate a delinquent Owner's rights to receive a utility service for which the Owner pays as a common~~

~~properties expense, and/or rights of access to and use of recreational facilities that and Common Area. Subject to the Acts, the Association may be located thereof by an also suspend the voting rights of a delinquent Owner for any period during which any assessment against his lot the Owner's Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction, violation, or breach of its published rules and regulations;~~

~~(e) The right of the Association to dedicate or transfer ownership, or grant easements, of or over all or any part of the Common Areas Area to any public agency, public authority, or public utility for such purposes and subject to such conditions as may be agreed approved by the members.~~

~~No such a majority of all Members. Such dedication or transfer shall be effective for a period of five (5) years from the date of the recording ownership of this Declaration and thereafter it shall the Common Area, or any portion thereof, to any public agency, authority, or utility, will 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)(c) The right of Developer and its sales agents and representatives, in addition to the rights set forth in Article X hereof, to approved by at least a majority of all the Members approving of such dedication or transfer. The Board may grant non-exclusive use of the common areas and facilities easements of or over all or any part of the Common Area to any public agency, public authority, or public utility company for maintenance of sales facilities, display, and exhibit such purposes; deemed reasonable and necessary by the Board without the need for approval by the Members;~~

~~(d) The right of the Association to enter into agreements or leases, which provide for use of the Common Area by a similar Association in consideration for use of the Common Area of the other Association, and/or for cash consideration;~~

~~(e) The right of the Association with the written consent or approval of not less than two-thirds (2/3) of all the Members, to sell, exchange, hypothecate, alienate, mortgage, encumber, dedicate, release, or transfer all or part of the Common Area to any private individual or corporate entity; and~~

~~(f) The terms and conditions of this Declaration and the Association's Governing Documents, including the covenant and condition that each Lot and all of the property within the Cedar Highlands Subdivision, must be occupied, constructed, improved, maintained, and used in accordance with the Ordinances of Iron County (Titles 15 and 17 of the Iron County Ordinances, including any other applicable ordinances of Iron County, as amended from time to time). Any violation and/or breach of the Ordinances shall constitute a breach and/or violation of this Declaration and/or the Association's Governing Documents. The Association, or any Owner, may enforce by any proceedings at law or in equity, the Ordinances against any other Owner of a Lot within the Cedar Highlands Subdivision, as if the Ordinances, as amended from time to time, are set forth and incorporated herein in their entirety.~~

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

Section 3. Title To Common Areas. ~~The Developer covenants that it will~~covenanted to convey title to the ~~common areas~~Common Area to the Association prior to or concurrently with the conveyance of the first Lot to a purchaser from Developer. ~~The Association has and retains the title to all Common Area within the Cedar Highlands Subdivision.~~

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 Governing Documents. The Association, or any Owner, ~~shall have~~has 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-, ~~or the Association's Governing Documents, pursuant and subject to requirements set forth in the Acts. Moreover, to the greatest extent permitted by law, the Association, or any Owner, has the right to enforce the Ordinances of Iron County, including all restrictions and ordinances of Iron County applicable to the Cedar Highlands Subdivision, by any proceedings at law or in equity, including filing and maintaining a lawsuit or other legal action in court.~~ Failure by the Association or by any Owner to enforce any covenant or restriction herein contained ~~in this Declaration or the other Governing Documents of the Association, or the Ordinances of Iron County,~~ shall in no event be deemed a waiver of the right to do so thereafter. ~~Except in emergency situations where there is an imminent threat to the life or safety of persons or property, prior to the Association or any Owner seeking to enforce the Ordinances of Iron County, the Association or Owner, must submit a written request to Iron County setting forth the alleged violation(s) and requesting Iron County to enforce the same. In such instance, Iron County shall have thirty (30) days to respond before the Association or Owner may pursue further enforcement of the Ordinances. A denial, interpretation, opinion, written finding, or lack of action by Iron County regarding the Ordinances shall in no way prejudice or have any dispositive impact or waiver on the ability of the Association or Owner to enforce, by any proceedings at law or in equity, the Ordinances as reasonably interpreted by the Association or Owner. Additionally, a breach of the Ordinances shall be considered a breach of this Declaration or the other Governing Documents and the prevailing party shall be entitled to all remedies and damages, including recovery of attorney fees and costs, as may be provided under the Governing Documents, against the party in violation or breach of the Ordinances.~~

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS THEREOF

Section 1. Membership of the Association. Every ~~owner~~Owner of a Lot ~~which that~~ is subject to ~~assessment shall be the Declaration~~ is subject to assessments hereunder, and is a Member of the Association. Membership ~~shall be in the Association is~~ appurtenant to and ~~may shall~~ 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 that is subject to the Declaration.~~

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 2. Voting and Action by Owners. Each Owner is entitled to one (1) vote for each Lot in which the Owner holds the interest required for membership in the Association. When more than one person holds such interest in any Lot (a "co-owner"), all such co-owners shall be Members and may attend any meetings of the Association, but only one such co-owner shall be entitled to exercise the vote to which the Lot is entitled. A vote cast at any Association meeting by any such co-owners, whether in person or by proxy, shall be conclusively presumed to be the vote attributable to the Lot concerned, unless an objection is immediately made by another co-owner of the same Lot. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever, other than to determine whether a quorum exists. The same principles apply to any other action or approval by a co-owner and the action or approval by one co-owner constitutes the action or approval attributable to the Lot concerned, unless an objection is immediately made by another co-owner of the same Lot and received by the Association within a reasonable time, not to exceed three (3) business days.

Section 3. Use and Delegations~~Delegation~~ of Rights of Enjoyment of Common Areas~~Area~~. Each ~~member shall be~~Member is entitled to the use and enjoyment of the Common ~~Areas and facilities~~Area as provided in the Declaration. Any ~~member~~Member may delegate ~~his~~the Member's rights of enjoyment of the Common ~~Areas and facilities~~Area to members of ~~his~~the Member's family who reside with ~~him or to his~~the Member, to the Member's guests, and/or to the Member's tenants or contract purchasers who reside on ~~his~~the Member's Lot

provided that no ~~member shall~~ Member will be reimbursed for any privileges which ~~he~~ the Member may delegate or grant to others by virtue of ~~his~~ the Member's 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~~ is in default in the payment of any annual ~~or assessment~~, special assessment, ~~or other assessment or charge~~ levied by the Association pursuant to the Governing Documents, the voting rights and right to use of the ~~common areas and recreational facilities~~ Common Area of such ~~member shall~~ Member may be suspended, subject to the terms and procedures set forth in the Governing Documents, until such assessment has been paid. Such rights of a Member ~~shall also be to use of the Common Area may only be~~ suspended, after notice and an opportunity for a hearing, and 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~~ Area or other property within the Cedar Highlands Subdivision.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each ~~owner~~ Owner of any Lot by acceptance of a deed therefore, whether or not it ~~shall be~~ is so expressed in such deed, is deemed to covenant and agree to pay to the Association: ~~(1) annual assessments or charges, and (2; (ii) special assessments for capital improvements, and (3) special or costs of maintenance assessments, replacement, or repairs for which the Association is obligated or authorized to undertake, as such assessments to may be established and collected as hereinafter provided. The annual and special; (iii) corrective assessments; (iv) emergency assessments; and (v) any other amount, fine or assessment, levied by the Association pursuant to the Governing Documents. All such assessments, together with interest, costs, and reasonable attorney's attorney fees for the enforcement or collection thereof, shall be a charge on the land, superior to any Declaration of Homestead, Lot and shall be a continuing lien upon the property Lot against which each—such assessment is made. Each All such assessment assessments, together with interest, costs and reasonable attorney's attorney fees for the enforcement or collection thereof, shall also be and remain the personal obligation of the person who was the owner Owner of such property Lot at the time when the assessment fell due. The This personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them cannot be avoided by abandonment of a Lot or by an offer to waive use of the Common Area. No sale or transfer of a Lot shall relieve an Owner from personal liability for assessments coming due after the Owner/Purchaser takes title or from the lien of such later assessments. In a voluntary conveyance of a Lot, the grantee of the Lot shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor for the grantor's share of assessments up to the time of the grant or conveyance being recorded, without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee. However, any such grantee shall be entitled to a statement from the Association setting forth the amounts of the unpaid assessments against the grantor, and such grantee shall not be liable for, nor shall the Lot conveyed be subject to a lien for, any unpaid assessments against the grantor in excess of the amount set forth.~~ (1) annual assessments or charges; (ii) special assessments for capital improvements, and (3) special or costs of maintenance assessments, replacement, or repairs for which the Association is obligated or authorized to undertake, as such assessments to may be established and collected as hereinafter provided. The annual and special; (iii) corrective assessments; (iv) emergency assessments; and (v) any other amount, fine or assessment, levied by the Association pursuant to the Governing Documents. All such assessments, together with interest, costs, and reasonable attorney's attorney fees for the enforcement or collection thereof, shall be a charge on the land, superior to any Declaration of Homestead, Lot and shall be a continuing lien upon the property Lot against which each—such assessment is made. Each All such assessment assessments, together with interest, costs and reasonable attorney's attorney fees for the enforcement or collection thereof, shall also be and remain the personal obligation of the person who was the owner Owner of such property Lot at the time when the assessment fell due. The This personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them cannot be avoided by abandonment of a Lot or by an offer to waive use of the Common Area. No sale or transfer of a Lot shall relieve an Owner from personal liability for assessments coming due after the Owner/Purchaser takes title or from the lien of such later assessments. In a voluntary conveyance of a Lot, the grantee of the Lot shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor for the grantor's share of assessments up to the time of the grant or conveyance being recorded, without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee. However, any such grantee shall be entitled to a statement from the Association setting forth the amounts of the unpaid assessments against the grantor, and such grantee shall not be liable for, nor shall the Lot conveyed be subject to a lien for, any unpaid assessments against the grantor in excess of the amount set forth.

Section 2. Purpose of Assessments. The assessments levied by the Association ~~shall must~~ shall be used ~~exclusively~~ to promote the recreation, health, safety and welfare of the

residents and Owners of Lots in the ~~properties~~Cedar Highlands Subdivision and for the improvement~~and, insurance, maintenance of the common areas and, repair, and/or replacement~~ of the Common Area and other areas within the Subdivision for which the Association has any responsibility or obligation, and for services including, but not limited to, streets, roads, water system and/or fire protection.

Section 3. Maximum Annual Assessment. ~~Until January 1 of~~

~~The Board may increase 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 by up to fifteen per centpercent (15%) above the maximumannual assessment for the previous year without a vote or approval of the membership. Owners;~~

~~(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an owner, the maximumThe annual assessment may be increased above fifteen per centpercent (15%) by from the amount for the prior year upon the vote or, written consent, assent of, or other approval of at least fifty one-percent (5150%) of all the members voting. Members; and~~

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

~~(c) The actual annual assessment need not increase annually. The Board shall set the actual annual assessment in an amount at or less than the maximum annual assessment on an annual basis. Notice of the annual assessment amount must be sent to each Owner in any manner provided in the Governing Documents. This notice is not a pre-requisite to the validity of the assessment. In the absence of a determination by the Board as to the amount of said assessment, the annual assessment shall be an amount equal to prior year's annual assessment. The assessment due dates shall be established by the Board. The Board may provide for the payment of annual assessments in equal installments throughout the assessment year.~~

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 can be assessed to pay the costs of any one or more of the following:~~

(a) Approved by Board. Special assessments for the following extraordinary expenses can be levied by the Board without Owner approval:

(i) An extraordinary expense required by an order of a court;

(ii) An extraordinary expense necessary to repair, replace or maintain the Common Area, or any other area within the Cedar Highlands Subdivision for which the Association is responsible, or any portion thereof, where a threat to personal safety within the Cedar Highlands Subdivision is discovered. Prior to the imposition or collection of a special assessment pursuant to this subsection, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense is necessary and was not or could not have been reasonably foreseen in the

budgeting process. The resolution shall be distributed to the Owners with the notice of assessment; and

(iii) Taxes payable to Iron County, if applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or

(b) Approved by Association. Special projects which must be assented to by more than fifty percent (50%) of all the Members of the Association, or the written consent of Owners holding more than fifty percent (50%) of the total votes of the Association, involve:

(i) replacement of a capital, repair, maintenance or improvement 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 of the Common Area or other areas within the Subdivision for which the Association is responsible; and

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. (ii) an extraordinary expense necessary to repair, replace or maintain the Common Area or any other portion of the Subdivision for which the Association is responsible.

Special assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the special assessment is approved if the Board so determines.

Section 5. 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 86. 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 must fix that the~~ 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 must~~ be sent or provided to ~~every owner subject thereto.~~ each Owner on an annual basis. The due dates ~~shall must~~ be determined by the 1st of the month after date of purchase of the Lot. ~~Board.~~ The Association ~~shall must~~, upon written 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~~ Sale must be checked by the transferring agent to verify ~~if the assessment is all assessments are~~ paid current, and if not, must be paid to and brought current with the Association at the time of transfer or ~~sale~~ Sale.

Section 97. Effect of Nonpayment of Assessments: Remedies. Any assessment not paid within thirty (30) days after the due date ~~shall must~~ bear interest from the due date at the rate of ~~fifteen per cent (15)~~ eighteen percent (18%) per annum, ~~or such other amount as may be determined by the Board.~~ Suit to recover a money judgment for unpaid assessments may be maintained against the ~~owner~~ Owner personally obligated to pay the same without foreclosing or waiving the lien securing said assessment. The Association may ~~enforce, in its discretion, bring a formal legal action against the Owner or seek to foreclose the lien against the Lot through nonjudicial or judicial foreclosure in accordance with the provisions of Utah law applicable to exercise the power of sale~~ Code § 57-the Community Association Act and Deeds of Trust, or the Governing Documents. Any judgment obtained by civil suit or the Association and any foreclosure commenced shall include reasonable attorney fees, court costs, interest thereon, and each and every other manner permitted expense incurred by law ~~the Association in enforcing its rights.~~

The Association through duly authorized agents ~~shall have~~ has the power to bid on the Lot at any such ~~sale~~ Sale and to hold, lease, mortgage, and or convey the same. No ~~owner~~ Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the ~~common area~~ Common Area or abandonment of ~~his~~ the Owner's Lot. If any suit or legal action is ~~brought~~ taken to collect any such assessment or other charge, ~~then there shall attorney fees, costs, and interest thereon, must~~ be added to the amount ~~thereof costs of suit and reasonable attorney's fees to be fixed by the court, including ongoing and included~~ additional attorney fees, costs, and interest in any Judgment ~~judgment entered~~ in any such suit or action, as applicable. The assessment liens and the rights to foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid assessments, as provided in the Governing Documents.

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.~~Section 8. Notice of Lien. Pursuant to, and in accordance with, Utah Code § 57-8a-302 and other provisions of the Acts, and Utah Code Sections 57-1-24, 57-1-25, 57-1-26, and 57-1-27, the Association shall have a lien for assessments against each Lot. An action may be brought by the Association to foreclose said assessment lien or to proceed nonjudicially under the power of sale, which is herein provided, pursuant to the Acts and related provisions of Utah Code regarding the same. The Board may elect to file a claim of lien against the Lot of the delinquent Owner by recording a notice ("Notice of Lien") setting forth (a) the amount of the claim or delinquency, (b) the interest and costs of collections which have accrued thereon, (c) the legal description of the Lot against which the lien is claimed, and (d) the name of the reputed Owner thereof. The lien shall continue until all amounts secured thereby and all subsequently accruing amounts are fully paid or otherwise satisfied. The lien shall be prior to any other lien arising thereafter, except for liens which, by law, are deemed prior to liens of a nature similar to such assessment liens. Unless paid or otherwise satisfied, the lien may be foreclosed in a like manner as a mortgage or deed of trust lien, including judicial or non-judicial foreclosure. For purpose of a foreclosure, the Association is considered to be the beneficiary under a trust deed and the Owner is considered to be the trustor under a trust deed. An Owner's acceptance of an interest in the Lot constitutes simultaneous conveyance of the Lot in trust, with power of sale, to the trustee designated in accordance with the Community Association Act. 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, or an authorized agent or attorney for the Association, are hereby authorized to file or record, as the case may be, an appropriate release of such notice, upon payment by the defaulting ~~owner~~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~~9. Subordination of the Lien to Mortgage. The lien ~~of the for~~ assessments provided for herein ~~shall be~~subordinate to the lien of any first ~~mortgage~~Mortgage. Sale or transfer of any Lot ~~shall must~~not affect the assessment lien. However, the ~~sale~~Sale or transfer of any Lot pursuant to ~~mortgage~~Mortgage foreclosures ~~or any proceeding in lieu thereof shall extinguish the lien~~extinguishes the Lot of such assessment as to payments which ~~become~~became due prior to such ~~sale~~Sale or transfer. No ~~sale~~Sale or transfer ~~shall will~~relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section ~~12~~10. Mortgage Protection. No breach of the covenants, conditions or restrictions in this Declaration, nor the enforcement thereof or of any lien provision herein, ~~shall will~~defeat or render invalid the lien of any ~~mortgage~~Mortgage or deed of trust made in good faith and for value. However, all of the covenants, conditions and restrictions in this Declaration ~~shall must~~be binding upon any Owner whose title is derived through foreclosure or exercise of a power of ~~sale~~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 1411. Right of Inspection. Any institutional lender of Institutional Lender or first mortgage lien shallholder has the right, upon written request, to examine and copy the Association's records identified in Utah Code § 57-8a-227(1), subject to the same terms and conditions for an Owner to examine and copy such records. Upon written request, an Institutional Lender or first mortgage lien holder shall also 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.

~~Section 12. Reinvestment Fee Covenant and Assessment. In addition to all other assessments, and in accordance with and subject to Utah Code § 57-1-46, as amended, upon the conveyance of a Lot there shall be a reinvestment fee charged to the buyer or seller, as the buyer and seller may determine, comprised of one or more of the following charges:~~

~~A reinvestment fee assessment in the sum of (0.3%) of the fair market value of the Lot and any improvements thereon, or such other amount as may be determined from time to time pursuant to Utah Code § 57-1-46, as amended, that is dedicated to benefiting the burdened property, including payment for: common planning, facilities, and infrastructure; obligations arising from an environmental covenant; community programming; resort facilities; open space; recreation amenities; charitable purposes; and/or association expenses. Notwithstanding the foregoing, such reinvestment fee shall not apply to any conveyance made solely for the purpose of transferring title to or from a family trust, provided that the trust is directly associated with the current Owner of the Lot and the beneficial interest in the Lot remains unchanged. This reinvestment fee covenant and the reinvestment fee may not be enforced upon: (i) an involuntary transfer; (ii) a transfer that results from a court order; (iii) a bona fide transfer to a family member of the seller within three degrees of consanguinity who, before the transfer, provides adequate proof of consanguinity; or (iv) a transfer or change of interest due to death, whether provided in a will, trust, or decree of distribution. The Association has the authority to record any notice required by law to effectuate the assessment and collection of the reinvestment fee. The Board has the authority to enact rules and regulations which may include: (i) requirements for Owners to provide sales and transfer documents; (ii) requirements for the timing of the Owner providing responses to the Association's requests; and (iii) other procedural requirements and rules as the Board deems appropriate to effectuate the provisions of this Section in a prompt and reasonable manner.~~

ARTICLE VI ARCHITECTURAL CONTROL

~~Section 1. Approval Required. NoAny building, fence, wall or other excavation, improvement, structure, or fence that requires a permit in accordance with or subject to Titles 15 and/or 17 of the Iron County Ordinances shall not be commenced, or erected, painted, or maintained by an Owner, upon the properties, nor shall any exterior addition to or change or alteration therein be madea Lot, or any building permit applied forwithin the Cedar Highlands Subdivision, until the plans and (i) first, the required permit is obtained from Iron County and~~

(ii) second, the required permit and the complete plan submission with specifications ~~showing the nature, kind, shape, height, color, materials, and specific location of the of the~~ same shall have been ~~submitted~~provided in writing to the Architectural Review Committee (“ARC”) and approved in writing ~~as to harmony of external design and specific location in relation to surrounding vegetation, structures by the ARC.~~ All architectural control decisions must be in accordance with any policy document approved by the Board to the extent that they are uniformly applied and topography-non-discriminatory. In the event the ~~Committee~~ARC fails to ~~approve~~provide an approval or ~~disapprove such design and location~~disapproval within thirty (30) business days after the complete plans ~~and with~~ specifications have been received by it, approval will not be required and this Article will be deemed to have been fully complied with, unless the same is expressly prohibited by the term of this Declaration. The ARC shall consist of three (3) or more persons and if an ARC is not designated and appointed by the Board the Board shall act as the ARC. Unless the Board appoints a committee of persons to act as the ARC all references to the ARC shall mean and refer to the Board. The ARC and Board must comply with the Acts, including without limitation, Utah Code § 57-8a-109, when reviewing, approving, and denying plans submitted for construction or improvement to a Lot.

Section 2. Architectural Review Committee. ~~An Architectural Review Committee~~The ARC 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~~ Board must 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, not~~ ARC, nor its designated representative ~~shall~~will 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~~ ARC will be liable to any person for ~~his~~the member's decisions or failure to act in making decisions as a member of ~~said committee~~the ARC. Appeals of the ARC decisions may be brought to the Board, and the Board has the express authority to affirm or otherwise overturn such decisions.

Section 3. Construction Activities. The Governing Documents of the Association may require (i) a general new construction impact fee payable to the Association by the Owner prior to the commencement of any new construction or improvement under Section 1 of Article VI herein, and/or (ii) a seasonal construction impact fee payable to the Association by the Owner prior to the commencement of any new construction that occurs between November 1st and April 30th of any year. The general new construction impact fee and the seasonal construction impact fee may be non-refundable, refundable, and/or partially refundable, as determined by the Board. The amount of the general new construction impact fee and the seasonal construction impact fee may be determined by the Board and set forth in the Bylaws and/or other Governing Documents of the Association. If any new construction on any Lot is commenced prior to the payment of either of said general new construction impact fee or seasonal construction impact fee, if applicable, then the Governing Documents may require an

additional late fee payable to the Association by the Owner. The seasonal construction impact fee may initially be in the amount of up to \$10,000 per Lot per year, for construction of a new building or structure upon a Lot that occurs between November 1st and April 30th of any year. The funds from such seasonal construction impact fee shall be an assessment on the Lot, and used for maintenance, repair, and replacement of the roads and/or other Common Area impacted by the construction activities. The seasonal construction impact fee and upper limit thereof may also be increased by the Board from time to time in an amount not to exceed 15% from the prior year.

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~~affects any other provisions, ~~the other provisions of which shall~~will 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 the written approval, written consent, assent, and/or vote of two-thirds (2/3) of the Lot owners, and shall require~~all the approval of two thirds (2/3 of Members within the institutional lenders Cedar Highlands Subdivision. Any amendment must be recorded with Iron County, Utah.

Section 3. ~~(a)~~ Annexation. Additional residential property and ~~common area~~Common Area, other than the property described on Exhibit "A" may be annexed to the ~~properties with the consent~~Project with the written consent or approval of at least two-thirds (2/3) of all the Members, which consent or approval must be evidenced in writing and comply with the Acts and Utah Code § 17-27a-601 et seq. In the case of annexing additional real property, an annexation fee of five percent (5%) of the Iron County assessed combined value of the land and any improvements built thereon must be paid, by the owner of the additional real property, to the Association within ten (10) business days of any written consent or approval of two-thirds (2/3) of all Members, the ~~members voting.~~

~~(b) Staged Developments. Additional land within the area described in Exhibit "A" fee of which may be added used to help offset the cost of maintenance and/or addition of Common Area, streets, roads, alleys, and/or utilities within the geographic boundaries of the Subdivision, and/or for other needs of the Association as determined 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 Board. In the absence of payment of said fee, the proposed and voted-upon annexation shall be null and void.

ARTICLE VIII USES PERMITTED AND PROHIBITED

In addition to all other covenants contained herein, the use and enjoyment of property within the properties and Cedar Highlands Subdivision, including each lot therein ~~are, is~~ subject to the following:

Section 1. None of the Lots ~~shall~~will 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~~ in accordance with the ordinances, code, rules, regulations, 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 /or zoning ordinance~~ limitations including but not limited to the Ordinances of Iron County, applicable to these properties the Project as set forth by Iron County and/or the State of Utah.

Section 32. No sign or billboard of any kind ~~shall~~will be displayed to the public view on any portion of the ~~properties~~Project or any Lot except (a) 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. Residential Entrance Signs are permitted.

Section 4. No dwelling shall be permitted on any Lot at a cost of less than \$20,000.00 ~~excluding (b) one sign displaying the Lot, based upon the cost levels prevailing on the date these covenants are recorded, it being the intention~~ address number, and purpose of the covenant to assure that all dwellings shall be of a quality of workmanship/or (c) one entrance sign 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 one-story open porches and garages, shall be not less than 640 square feet/or arch.

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.~~Section 3. All buildings must be located on corresponding Lots in accordance with setback requirements as may be set forth in the ordinances, code, rules, regulations, and/or zoning limitations including but not limited to the Ordinances of Iron County, applicable to the Project as set forth by Iron County and/or the State of Utah.

Section 4. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded ~~plat~~Plats. Within these easements, no structure, planting or other material ~~shall~~will 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~~Lot and all improvements in it ~~shall~~must be maintained continuously by the ~~owner~~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. No outside irrigation will be permitted.~~

Section 95. No structure of a temporary character, including a trailer, basement, tent, shack, garage, barn, or other temporary building ~~shall~~will be used on any ~~lot~~Lot at any time as a permanent dwelling. For a period of time not exceeding two years from initial commencement of construction on a Lot, recreational vehicles, including trailers and campers,

may be used on the ~~lot~~Lot by the ~~owner~~Owner while constructing a permanent dwelling. ~~Such Only self-contained~~recreational vehicles ~~shall only be used which are self-contained or which utilize or recreational vehicles that have~~ portable waste disposal units are permitted to be used. 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 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 13. Each owner of a Lot shall~~Section 6. The keeping and/or breeding of any animals on any Lot must comply with the ordinances, code, rules, regulations, and/or domestic

animal limitations including but not limited to the Ordinances of Iron County, applicable to the Project as set forth by Iron County, the State of Utah, and/or the policies of the Association.

Section 7. Each Owner of a Lot must pay any real and personal property taxes or charges assessed against ~~his~~the Owner's respective ~~lot~~Lot, and the utility charges for said ~~lot~~Lot, and all costs of maintaining said ~~lot~~Lot and ~~dwelling-unit~~any structures thereon.

Section 148. ~~The respective lots shall not~~Lots are permitted to be rented ~~by the owners thereof for transient or hotel purposes which shall be defined as only~~ in accordance with the ordinances, code, rules, regulations, and/or zoning limitations including but not limited to (a) Title 17 of the Iron County Code, or the Ordinances, and (b) Title 57, Chapter 8a of the Utah Code, applicable to the Project as set forth by Iron County and/or the State of Utah.

- (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 set forth herein, the owners~~Owners of the respective ~~lots~~Lots have the absolute right to lease same, provided that said lease is made subject to the ~~Covenants and Restrictions~~covenants, restrictions, conditions ~~and~~, limitations, and uses contained in this Declaration, and further subject to the ~~Articles of Incorporation and the By laws~~Association's Governing Documents. The Governing Documents may differentiate their treatment of lease types, i.e., between a Long-Term Rental (i.e., the rental of a residential property or portion thereof for a period of 30 or more consecutive days) or a Short-Term Rental (i.e., the rental of a residential property or portion thereof for a period of less than 30 consecutive days), but neither type of lease is prohibited. Any lease of any Lot is subject to all conditions and limitations set forth in the Governing Documents, regardless of whether or not so indicated in said lease;
- (b) Subject to the Acts, in the case of a Long-Term Rental, no additional fee will be required from the Owner or the tenant for the right of leasing a corresponding Lot or portion thereof. In the case of a Short-Term Rental, the policies 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 may indicate an additional fair and reasonable application fee and/or an additional fair and reasonable ongoing annual fee, which are in addition to the usual annual assessment and any special assessments, payable to the Association upon execution in consideration for the right to lease same, the fee(s) of which may be used to help offset the cost of maintenance of the streets, roads, and alleys within the geographic boundaries of the Association, and/or for other needs of the Association as determined by the Board. Neither of the said additional application fee nor the said additional ongoing annual fee will exceed, in terms of the amount of each additional fee, the amount of the usual annual assessment. Any lease of any Lot is permitted to include a term of lease that is at least but not less than two (2) days. The Governing Documents and the policies of the Association with respect to leases must comply with the Acts and the Ordinances, and be narrowly tailored with the limited purpose of enhancing the safety and enjoyment of the Project by the Owners, their guests, and their tenants;~~
- (c) The Governing Documents may include a requirement that (i) the Owners of the Lots must inform their guests and tenants that they are required to use 4-wheel drive or all-wheel drive vehicles on the streets and roads within the geographic boundaries of the Association throughout the year, and (ii) that tire chains must be used and/or carried within the vehicles at least during the winter season; and

(d) The Owners of the Lots must ensure that their guests and tenants are informed of and adhere to all of the Association's Governing Documents. The Owners of the Lots are responsible for the behavior and compliance of their guests and tenants. Failure to maintain a peaceful, safe, and enjoyable environment may result in fines and/or temporary restrictions as determined by the Board and set forth in the Governing Documents. Any failure of the tenants to comply with the Governing Documents constitute a default under the lease. All leases must be in writing, and a copy must be submitted to the Association upon request by the Board.

Section 15.9. Each ~~owner~~Owner of a ~~lot~~Lot must maintain, repair, and replace the improvements thereon ~~so that the same shall~~in good condition and repair at all times~~remain in, similar to the same~~ condition ~~as of~~ such improvements ~~were~~ at the time the ~~owner~~Owner initially occupied the same, reasonable wear and tear excepted.

Section 16.10. Any ~~member~~Member may delegate in accordance with the ~~By-Laws of Governing Documents, the Association, his~~Member's right of enjoyment of the ~~common areas and the facilities~~Common Area to the members of ~~his~~the Member's family, ~~his~~the Member's guests, the Member's tenants, and/or contract purchasers who reside on the property providing that the ~~member~~Member notifies the Association in writing to whom ~~his~~the Member's rights are being relinquished~~in favor of~~.

Section 11. Liability. The Owners of the Lots, their guests, and their tenants assume and accept all risk and liability for the use of the streets, roads, alleys, and the Common Area within the geographic boundaries of the Association throughout the year. The Association does not own Cedar Highlands Drive, High Cedar Highlands Drive, Greens Lake Drive, or Right Hand Canyon Road, and has no obligation to maintain such streets and roads. For all other streets, roads, and Common Area within the geographic boundaries of the Association, the Association may put forth a best effort to maintain said streets, roads, and Common Area, and to mitigate said streets and roads of snow and ice, but the Association must not be held liable for any kind of accident, use, mis-use, damage, death, injury, or the like, as a result of said use. To the extent that Cedar Highlands Drive, High Cedar Highlands Drive, and/or Greens Lake Drive are not being maintained by their owner, the Association may intervene out of necessity to maintain and/or mitigate said streets and roads of snow and ice in the interest of enabling access to the other streets, roads, and Common Area, but the Association must not be held liable for any kind of accident, use, mis-use, damage, death, injury, or the like, as a result of said use.

Section 12. Damages Caused by the Owners of the Lots. All Owners of the Lots must bear the full financial burden and responsibility for any and all damage caused to the Common Area, streets, and roads that may have been caused by themselves, their contractors, their vendors, their guests, their tenants, their licensees, and/or any party performing work on their behalf, regardless of whether the Owner had prior knowledge of the damage and regardless of when the damage occurred. Owners must fully remediate any such damage at their sole expense upon notice from the Association, or reimburse the Association of all repair expenses incurred by the Association.

Section 13. Fines. The Association, through its Board, shall have the power to levy fines for violations of the Governing Documents and fines may only be levied for violations of the Governing Documents. In addition to the levy of fines, the Board may also elect to pursue other enforcement remedies and/or damages permitted under the Governing Documents. Furthermore, pursuant to Utah Code §57-8a-218(2)(b), a tenant shall be jointly and severally liable to the Association with the Owner leasing to such tenant for any violation

of the Governing Documents by the tenant. The Board shall adopt a rule for the procedure to enforce the Governing Documents and levy fines, including a schedule of fines.

ARTICLE IX
REGULATION OF WATER SUPPLY AND DISTRIBUTION SYSTEM

The right and duties of the Homeowners Association with respect to maintenanceSection 1:
Water. Regulation and operation of the water supply and water distribution system ~~for Cedar Highlands Subdivision~~ are by Iron County Water Conservancy District of Iron County, Utah
in accordance with the ordinances, code, rules, and regulations of Iron County 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~~must:

(a) Have the power and authority at any time, without liability to any ~~owner~~Owner, to enter upon any ~~lot~~Lot and the exterior of any dwelling unit, fence or wall subject to this Declaration in response to a written complaint from another Owner and/or for the purpose of enforcing any and all of the provisions of this Declaration, ~~and any other Governing Documents of the Association shall also have. Prior to exercising the power to enter upon any Lot and the exterior of any dwelling unit, the Association should seek permission from the Owner and make a good faith effort to communicate which provisions of this Declaration and any other Governing Documents are at issue, and provide the Owner with an opportunity to remedy the issue. If the issue is not remedied within a reasonable time determined by the Board, and permission is not granted by the Owner, the Association nevertheless has the power and authority to enter upon any Lot and the exterior of any dwelling unit to investigate the written complaint and/or to enforce any and all of the provisions of this Declaration and any other Governing Documents of the Association. In the case of an emergency or under exigent circumstances, the Association need not seek prior permission from the Owner to enter upon any Lot and the exterior of any dwelling unit. The Association also has the power and authority in its own name to maintain actions to enjoin any breach or threatened injunction or otherwise, all of the provisions of this Declaration; or the other Governing Documents;~~

(b) Own, maintain and otherwise manage all of the ~~common properties, water system, and~~Common Area, all facilities, and improvements thereon, ~~and all private streets and, all roads,~~ 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;~~Common Area;

(d) Have the authority to obtain, for the benefit of ~~all the common properties~~any property within the Cedar Highlands Subdivision, including all Common Area, all water, gas, electric power, ~~and internet, fiber, fiber optic,~~ refuse collections, and ancillary utilities such as internet and landline phone services; nothing contained in this subparagraph ~~shall~~will be

construed to impose any obligation on the Association to remove garbage or rubbish from any individual residence or Lot;

(e) Grant easements where necessary for utilities ~~and sewer facilities~~ such as water, gas, electric power, refuse collections, internet, fiber, fiber optic, cable television, and/or landline phone services over the ~~common properties~~ Common Area, or easement areas, to service the ~~common properties and~~ Common Area or the lots 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~~ must 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)(g) Maintain its funds in a trust account and render~~ Render an annual accounting, preferably prepared and preferably certified by an independent Certified Public Accountant, to its ~~members~~ Members;

~~(h) Establish and publish such general Rules~~ rules, regulations, and Regulations/or policies as the Association may deem reasonable in connection with the use and maintenance of all of the ~~properties, such Rules~~ Project, so long that such rules, regulations, and/or policies are in compliance with this Declaration, and in compliance with the ordinances, code, rules, and Regulations/or regulations applicable to the Project as set forth by Iron County and/or the State of Utah;

~~(j)(i) Such rules, regulations, and/or policies may be altered and amended from time to time as the Association may see fit. A copy of such rules and Regulations shall, regulations, and/or policies must be:~~

- (1) Maintained ~~in the office of~~ by the Association and ~~may~~ must be available for inspection at all reasonable times; ~~and~~
- (2) ~~Posted~~ Preferably posted in a conspicuous place on the ~~common properties~~ Common Area.

The ~~Rules and Regulations shall be~~ rules, regulations, and/or policies are binding upon each and every Owner ~~upon the happening of any of the foregoing. No changes or amendments in said Rules and Regulations shall, and will~~ 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)(j)~~ 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. The Association should avoid entering into any contracts that~~ bind it for a period in excess of one (1) year, unless reasonable cancellation provisions are included in the contracts; and

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

~~(m) —~~

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 recreational and residential 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.~~

(k) ~~ARTICLE XI~~The Association, including its authorized agents, do not have the right to enter any structures and improvements built upon the Lots without the consent of the Owner, except in emergency situations that pose an imminent threat to the life or safety of persons or property. In any such emergency situation, the Association shall provide further written notice to the Owner describing the emergency situation and the related details as soon as is practicable.

ARTICLE XI ADDITIONAL PROVISIONS

Section 1. ~~Financing Improvement of the Common Areas and Facilities.~~Area. The Association ~~shall have~~has the right in accordance with ~~its Articles and By Laws~~the Governing Documents, to borrow money for the purpose of improving ~~common areas and facilities, and the Common Area, including any improvements or~~ incidentals thereto, with the ~~written consent, or other approval of two-thirds (2/3) at least a majority of the membership voting and two-thirds (2/3) of the institutional lenders~~all Members, and to mortgage said ~~common areas and facilities~~Common Area.

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~~Exhibit "A", provided that any merger or consolidation ~~shall have~~has the ~~assent by vote~~written consent or other approval of at least two-thirds (2/3) of ~~members voting,~~all the Members. Any such mergers and consolidations are ~~subject to the annexation fee set forth in person or by proxy at a meeting duly called for this purpose~~Section 3, Article VII herein.

Section 3. Severability of Membership in the Association from Ownership of a Lot. No Purchasers or ~~owner~~Owner of any Lot ~~shall are permitted to~~ convey ~~his~~the Owner's interest in any such ~~lot~~Lot separately from ~~his~~the Owner's membership in the Association, and no ~~member~~Member of the Association ~~shall is permitted to~~ convey or otherwise dispose of ~~his~~the Owner's membership rights in the Association without at the same time conveying ~~his~~the Owner's interest in the Lot to which ~~his~~the Owner's membership attaches. Membership ~~shall must~~ be transferred by the Association only to a new ~~owner~~Owner of the Lot to which membership attaches. A ~~Tenant~~tenant of an ~~owner shall~~Owner is not ~~be a member~~Member of the Association, but the tenant of an ~~owner shall have~~Owner has the right to use the ~~facilities~~Common Area of the Association in the same manner as if ~~he~~the tenant 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~~Owner.

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

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

Section 6. Dispute Resolution and Limitation on Litigation.

6.1 Agreement to Avoid Litigation. The Association, its officers, trustees, and committee members, and all persons subject to the Governing Documents agree to encourage the amicable resolution of disputes involving the Project, without the emotional and financial costs of litigation. Accordingly, each bound party covenants and agrees that those claims, grievances or disputes described in Sections 6.2 ("Claims") shall be resolved using the procedures set forth in Section 6.3 in lieu of filing suit in any court.

6.2 Claims. Unless specifically exempted below, all claims, grievances, or disputes arising out of or relating to the interpretation, application or enforcement of the Governing Documents, or the rights, obligations and duties of any member of the Board or Owner of a Lot under the Governing Documents shall be subject to the provisions of Section 6.3. The following claims are exempt from this Section 6:

- (a) Any suit by the Association to collect assessments;
- (b) Any suit by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of its Governing Documents.
- (c) Any suit between Owners, which does not include the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents.
- (d) Any suit in which any indispensable party is not a bound party to the Governing Documents; and
- (e) Any suit which otherwise would be barred by an applicable statute of limitations.

6.3 Mandatory Procedures.

(a) Notice. Any bound party having a Claim ("Claimant") against any other bound party ("Respondent") (collectively, the "Parties") shall notify each Respondent in writing (the "Notice"), stating plainly and concisely:

(i) the nature of the Claim, including the Persons involved and Respondent's role in the Claim;

- (ii) the legal basis of the Claim (i.e., the authority out of which the Claim arises);
- (iii) Claimant's proposed remedy; and
- (iv) that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation and Mediation.

(i) The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in resolving the dispute by negotiation;

(ii) If the Parties do not resolve the Claim within thirty (30) days of the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have thirty (30) additional days to submit the Claim to mediation under the auspices of an independent agency providing dispute resolution services in Utah;

(iii) IF CLAIMANT DOES NOT SUBMIT THE CLAIM TO MEDIATION WITHIN THIRTY (30) DAYS AFTER TERMINATION OF NEGOTIATIONS, OR DOES NOT APPEAR FOR THE MEDIATION, CLAIMANT SHALL BE DEEMED TO HAVE WAIVED THE CLAIM, AND RESPONDENT SHALL HAVE BEEN RELEASED AND DISCHARGED FROM ANY AND ALL LIABILITY TO CLAIMANT ON ACCOUNT OF SUCH CLAIM; PROVIDED NOTHING HEREIN SHALL RELEASE OR DISCHARGE RESPONDENT FROM ANY LIABILITY TO ANY PERSON OTHER THAN THE CLAIMANT;

(iv) Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If the Parties do not settle the Claim within thirty (30) days after submission of the matter to the mediation process, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated; and

(v) Within five (5) days of the Termination of Mediation, the Claimant shall make a final written settlement demand ("Settlement Demand") to the Respondent and the Respondent shall make a final written settlement offer ("Settlement Offer") to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant's original Notice shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

(c) Legal Action.

IF THE PARTIES DO NOT AGREE IN WRITING TO A SETTLEMENT OF THE CLAIM WITHIN FIFTEEN (15) DAYS OF THE TERMINATION OF MEDIATION,

THE CLAIMANT SHALL HAVE SIXTY (60) ADDITIONAL DAYS TO FILE A LEGAL ACTION IN COURT. IF THE CLAIMANT FAILS TO TIMELY FILE A LEGAL ACTION IN COURT, THE CLAIM SHALL BE DEEMED ABANDONED. THE RESPONDENT SHALL BE RELEASED AND DISCHARGED FROM ANY AND ALL LIABILITY TO CLAIMANT ARISING OUT OF SUCH CLAIM; PROVIDED, NOTHING HEREIN SHALL RELEASE OR DISCHARGE RESPONDENT FROM ANY LIABILITY TO PERSONS OTHER THAN CLAIMANT.

(d) Allocation of Costs of Mediation. Each party shall bear its own mediation costs, including any attorney's fees incurred, and each party shall share equally all charges rendered by the mediators.

6.4 Enforcement of Resolution. After resolution of any claim, if any party fails to abide by the terms of any agreement or binding award, then any other party may file suit or initiate administrative proceedings to enforce such agreement or award without the need to again comply with the procedures set forth in Section 6.3. In such event, the party taking action to enforce the agreement or award shall be entitled to recover from the non-complying party (or if more than one non-complying party, from all such Parties pro rata) all costs incurred in enforcing such agreement or award, including, without limitation, attorney fees and court costs.

DATED THIS 6TH DAY OF SEPTEMBER, 1991, 202

IN WITNESS WHEREOF, on the day of , 202 , by the affirmative vote of the Owners holding not less than two-thirds (2/3) of the voting power of the Owners, and approval of not less than two-thirds (2/3) of the institutional lenders, this Amended and Restated Declaration of Covenants and Restrictions of the Cedar Highlands Subdivision was agreed upon and it is directed that the same be recorded in the records of the Iron County Recorder, State of Utah.

CEDAR HIGHLANDS HOMEOWNERS ASSOCIATION, INC.

By:

Its: President

STATE OF UTAH)
 : ss.
County of Iron)

On the day of , 202 , personally appeared before me
_____, who being by me duly sworn, did say that he/she is
the President of the Association, the authorized individual empowered to sign this Amended
and Restated Declaration and that the same was signed on behalf of said Association and said
person acknowledged to me that said Association and at least sixty-seven percent of the
Owners authorized the execution of the same.

Notary Public

Witnessed:

Secretary for Cedar Highlands Homeowners Association, Inc.

Exhibit “A”
(Legal Description)

This Amended and Restated Declaration of Covenants and Restrictions of the Cedar Highlands Subdivision affects the following real property, all located in Iron County, State of Utah:

Block 1 Amended: All of Lot 1 and Lot 6, together with all Common Area, Cedar Highlands Subdivision Amended, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0002-0001

PARCEL: D-1024-0001-0006

Block 2 Amended: All of Lots 7 through 9, together with all Common Area, Cedar Highlands Subdivision Amended, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0002-0007 through D-1024-0002-0009

Block 1: All of Lot 1A and Lots 2 through 5, together with all Common Area, Cedar Highlands Subdivision, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0001-001A

PARCEL: D-1024-0001-0002 through D-1024-0001-0005

Block 2: All of Lots 2 through 6 and Lots 10 through 34, together with all Common Area, Cedar Highlands Subdivision, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0002-0002 through D-1024-0002-0006

PARCEL: D-1024-0002-0010 through D-1024-0002-0034

Block 3: All of Lots 1 through 13, together with all Common Area, Cedar Highlands Subdivision, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0003-0001 through D-1024-0003-0013

Block 4: All of Lots 1 through 19, together with all Common Area, Cedar Highlands Subdivision, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0004-001 through D-1024-0004-0019

Block 5: All of Lots 1 through 10, together with all Common Area, Cedar Highlands Subdivision, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0005-0001 through D-1024-0005-0010

Block 6: All of Lots 1 through 12, together with all Common Area, Cedar Highlands Subdivision, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0006-0001 through D-1024-0006-0012

Block 7: All of Lots 1 through 9, together with all Common Area, Cedar Highlands Subdivision, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0007-0001 through D-1024-0007-0009

Block 8: All of Lots 1 through 20, together with all Common Area, Cedar Highlands Subdivision, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0008-0001 through D-1024-0008-0020

Block 9: All of Lots 1 through 10, together with all Common Area, Cedar Highlands Subdivision, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0009-0001 through D-1024-0009-0010

Block 10: All of Lots 1 through 6, together with all Common Area, Cedar Highlands Subdivision, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0010-0001 through D-1024-0010-0006

Block 11: All of Lots 1 through 11, together with all Common Area, Cedar Highlands Subdivision, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0011-0001 through D-1024-0011-0011

Block 12: All of Lots 1 through 15, together with all Common Area, Cedar Highlands Subdivision, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0012-0001 through D-1024-0012-0015

Common Area: All Area Known as Common Area of Cedar Highlands Subdivision, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0013-0000

PARCEL: D-1024-0014-0000

Exhibit “B”

Exhibit “C”

[insert pages with signatures to evidence compliance with the following: this Amended and Restated Declaration is adopted and approved to be recorded against the Cedar Highlands Subdivision pursuant to Article VII, Section 2, of the Original Declaration, by: (i) not less than two-thirds (2/3) of the Lot Owners, as evidenced by Exhibit “C” of this instrument, which contains the signatures of not less than two-thirds (2/3) of the Owners approving of this Amended and Restated Declaration; and (ii) approval of not less than two-thirds (2/3) of the institutional lenders, pursuant to Utah Code § 57-8a-104.3. As to approval of institutional lenders, you can do a sworn statement that notice was sent to the institutional lenders and the time period to respond expired, therefore pursuant to Utah Code § 57-8a-210, the security holder's consent is presumed if: (a) written notice of the proposed amendment or action is sent by certified or registered mail to the security holder's address listed for receiving notice in the recorded trust deed or other recorded document evidencing the security interest; (b) 60 days have passed after the day on which notice was mailed; and (c) the person designated for receipt of the response in the notice has not received a written response from the security holder either consenting to or refusing to accept the amendment or action.]

³ Under Utah Code § 57-8a-104(1)(a), “to amend the governing documents, the governing documents may not require: . . . the vote or approval of lien holders holding more than 67% of the first position security interests secured by a mortgage or trust deed in the association.” Additionally, Under Utah Code § 57-8a-210, the security holder's consent is presumed if: (a) written notice of the proposed amendment or action is sent by certified or registered mail to the security holder's address listed for receiving notice in the recorded trust deed or other recorded document evidencing the security interest; (b) 60 days have passed after the day on which notice was mailed; and (c) the person designated for receipt of the response in the notice has not received a written response from the security holder either consenting to or refusing to accept the amendment or action.