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By SOUTHERN UTAH TITLE CO



**Declaration of Covenants, Conditions, and Restrictions for
Millcreek Springs Subdivision Phase 2**

Declarant owns certain real property in Washington County, Utah, which is more particularly described as:

See Exhibit "A" attached hereto and incorporated herein by this reference

Declarant desires and intends to protect the value and desirability of the Property as a harmonious and attractive residential subdivision. Therefore, Declarant hereby declares that all of the Property shall be held, sold, conveyed and occupied subject to the following covenants, conditions, restrictions, and easements, and to the Plat recorded concurrently. The covenants, conditions, and restrictions in this Declaration and the Plat shall be construed as covenants of equitable servitude; shall run with the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns; and shall inure to the benefit of each Owner thereof.

**ARTICLE 1
DEFINITIONS**

The following definitions shall control in this Declaration. Any terms used in this Declaration that are not defined shall have their plain and ordinary meaning.

1.1. *"Articles"* means and refers to the Articles of Incorporation of Millcreek Springs Subdivision Owners Association. The purpose of the Articles is to establish the Association as a non-profit corporation under Utah law.

1.2. *"Association"* means Millcreek Springs Owners Association, a Utah non-profit corporation, its successors and assigns.

1.3. *"Bylaws"* means and refers to the Bylaws of Millcreek Springs Owners Association. The purpose of the Bylaws is to govern the Association's internal affairs, such as (for purposes of example but not limitation) voting, elections, and meetings.

1.4. *"Common Area"* means all real property, including the improvements thereto and facilities thereon, owned or hereafter acquired by the Association for the common use and enjoyment of the Owners.

1.5. "*Common Expenses*" shall mean and refer to all sums which are expended on the behalf of all the Unit Owners and all sums which are required by the Management Committee to perform or exercise its functions, duties or rights under Utah law, this Declaration, any management agreement for the operation of the Project, and such Rules and Regulations as the Management Committee may, from time to time, make and adopt. By the way of illustration but not limitation, Common Expenses shall include

- 1.5.1 Expense of administration, maintenance, operation, repair, or replacement of those elements of the Common Areas that must be replaced on a periodic basis, and to other reserves as may, from time to time, be established pursuant to the Declaration
- 1.5.2 Expenses agreed upon by the Association and lawfully assessed against the Owners in accordance with the Declaration
- 1.5.3 Expenses declared Common Expenses by Utah Law, this Declaration or the Bylaws; and
- 1.5.4 Any valid charge against the Project as a whole.

1.6. "*Declarant*" means the undersigned, and its heirs, successors, and assigns.

1.7. "*Declaration*" means this instrument and any amendments, restatements, supplements, or annexations thereto, which are recorded in the office of the Washington County Recorder.

1.8. "*Development Phase*" means the period of time in which the Declarant owns any Lot within the Property, or is otherwise actively marketing or selling Lots or marketing, selling, or constructing homes within the Property. Notwithstanding the foregoing, the Development Phase shall cease upon the express declaration of such cessation by Declarant in a written instrument that is recorded in the office of the Washington County Recorder, which instrument shall specify the date of cessation. If the instrument specifies no date, the surrender shall be the date of recording of the instrument.

1.9. "*Directors*", "*Board of Directors*", "*Management Committee*" or "*Board*" means the governing body of the Association.

1.10. "*Lot*" means a separately numbered and individually described plot of land shown on the Plat designated as a Lot for private ownership.

1.11. "*Lot Owner*" means and is synonymous with the term "Owner".

1.12. "*Owner*" means the entity, person, or group of persons owning fee simple title to any Lot which is within the Property.

1.13. "**Plat**" means the subdivision Plat recorded herewith prepared and certified by a Utah Registered Land Surveyor and any replacements thereof, or additions thereto.

1.14. "**Property**" means that certain real property hereinbefore described, and such annexations and additions thereto as may hereafter be subjected to this Declaration. The term "**Subdivision**" is synonymous with the term Property.

1.15. "**Single Family**" means an individual living alone, a group of two or more persons each related to the other by blood, marriage or legal adoption, or a group of not more than three persons not all so related, who maintain a common household within a home.

1.16. "**Single Family home**" means a single family stand along house within the project.

1.17. "**Townhome**" means single-family house that is connected to three or more similar dwellings by common sidewalls.

1.18. "**Unit**" or "**Units**" means and refers to a separate physical part of the Property intended for independent use, and an individual interest in the Common Areas and Facilities appertaining to that Unit. Units are identified in the Record of Survey Map by Unit Number. Each Unit shall be attached to another Unit in the Project. Each Unit shall share a common wall with another Unit in the Project. Each Unit shall include all space up to the centerline of the common wall, mechanical equipment, and appurtenances.

ARTICLE 2

USE RESTRICTIONS AND REQUIREMENTS

2.1. **Land Use and Building Type.** All Lots, townhomes and the homes constructed thereon, shall be used only for Single Family residential purposes. No professional, business or commercial use shall be made of the same, or any portion thereof; provided, however, that the Lot restrictions contained in this section shall not be construed in such a manner as to prohibit an Owner or resident from (a) maintaining a personal professional library therein; (b) keeping personal business or professional records or accounts therein; or (c) handling personal, business or professional telephone calls or correspondence therefrom.

2.2. **Lot Size.** Lot sizes as described on the Plat are considered minimum Lot sizes and no person shall further subdivide any Lot other than as shown on the recorded plat of said subdivision. Lots may not be combined for construction of a single home.

2.3. **Care and Maintenance of Lots.** Each Owner shall be responsible for maintenance and upkeep of his Lot and shall keep the same free from rubbish, litter and noxious weeds. All structures, landscaping and improvements shall be maintained in good condition and repair at all times. In the event any Owner fails to perform this maintenance in a manner so as not to detract from the appearance of the property, or affect adversely the value or use of any other Lot, the Directors shall have the right to have maintenance performed on the Lot and the cost of said maintenance shall be added to and become part of the assessment to which such Lot is subject.

2.4. **Care and Maintenance of Common Area.** The Association shall be responsible for care and maintenance of the Common Area and improvements thereon. Any damage caused to the Common Areas and/or improvements by any Lot Owner and/or their agents, guests or invitees must be repaired by the Lot Owner as soon as possible after such damage is discovered, and in the event of failure of the Owner to make such repairs, the Association may make such repairs and the expense of such repair shall be borne by the Lot Owner.

2.5. **Hazardous Activities.** No activities shall be conducted on the Property and no improvements shall be constructed on the Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon the Property and no open fires shall be lighted or permitted on the Property except in a contained barbecue or fire pit unit while attended and in use for cooking purposes or within a safe and well-designed interior fireplace.

2.6. **Motorbikes.** All motorcycles, trail bikes, three-wheel powered devices, automobiles, and two or four-wheel drive recreational type vehicles are to be stored in garages, and are to be used on said streets only for ingress, egress, and access purposes and not for recreational purposes anywhere within the Property. No repairs to these vehicles may be made on the project.

2.7. **Signage.** No signs whatsoever shall be erected or maintained in the Common Areas without the prior written consent of the Management Committee, except for the following: such signs as may be required by legal proceedings, and such signs as Declarant or licensed general contractors may erect or maintain incident to the sale of Units.

2.8. **Weed Control.** Each Lot Owner shall, to the extent reasonably feasible, control the growth and proliferation of noxious weeds and flammable materials on his Lot so as to minimize weeds, fire and other hazards to surrounding Lots, Homes, the Common Areas, and surrounding properties, and shall otherwise comply with any applicable ordinances, laws, rules, or regulations pertaining to the removal and/or control of noxious weeds. Noxious weeds shall mean and refer to those plants which are injurious to crops, animals, land, or the public health.

2.9. **Pest Control.** No Lot Owner shall permit any thing or condition to exist upon his Lot which would induce, breed, or harbor infectious plant diseases or noxious insects. Each Owner shall perform such pest control activities on his Lot as may be necessary to prevent insects, rodents, and other pests from being present on his Lot.

2.10. **Nuisances.** No noxious or offensive activity shall be carried on upon any Lot, part or portion of the Property, nor shall anything be done thereon which may be or may become an annoyance to the Subdivision.

2.11. **Safe Condition.** Without limiting any other provision of these covenants, each Owner shall maintain and keep such Owner's Lot at all times in a safe, sound and sanitary condition and repair and shall correct any condition or refrain from any activity which might endanger the health of or interfere with the safety or reasonable enjoyment of other Owners of their respective Lots.

2.12. **Oil and Mining Operations.** No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, part or portion of the Property, nor shall any oil well, gas well, tank, tunnel, mineral excavation or shaft be permitted upon or in any such Lot or portion of the Property.

2.13. **Animals, Livestock, Poultry, and Agriculture.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, part or portion of the Property, except that dogs, cats or other domesticated household pets, two (2) or less in total number may be kept in a home constructed on a Lot, provided that they are not kept, bred, or maintained for any commercial purpose. Such animals as are permitted shall be strictly controlled and kept pursuant to all applicable laws and ordinances and shall be on a leash or inside the Owner's home. Owner's shall control any barking or noise from their animals which may cause a nuisance to neighboring Owners.

2.14. **Garbage and Refuse Disposal.** No Lot or part or portion of the Property shall be used or maintained as a dumping ground for rubbish, rubble, trash, garbage or other waste. Such trash, rubbish, rubble, garbage or other waste as produced within the Property shall be kept in sanitary containers inside a structure or on a cement pad behind the required front Lot line set-back area, except when placed for collection. No rubbish, trash, papers, junk or debris shall be burned upon the Property except that trash may be burned in accordance with applicable laws and ordinances inside homes that are properly equipped with inside incinerator units.

2.15. **Sewage Disposal.** Each home shall be connected to and use the municipal sewage disposal system. No individual sewage disposal system shall be permitted on any Lot, part or portion of the Property.

2.16. **RVs, Boats, and Vehicles.** No boats, trailers, buses, motor homes, campers, recreational vehicles, or other such vehicles, shall be parked or stored upon any Lot except within an enclosed. No such vehicles shall be parked overnight on any street located within the subdivision. Trailers, motor homes, and trucks over 9,000 pounds GVW are not allowed to be stored upon any vacant Lot or street or road area adjacent to the Property. Motor vehicles that are inoperable shall not be permitted to remain upon any street or Lot or road areas adjacent thereto. In the event an inoperable motor vehicle remains upon any Lot or road area for a period exceeding thirty (30) days, the Declarant, the Association, or other Lot Owners residing within the Property may remove the inoperable motor vehicle after a ten (10) day written notice. The cost of such removal shall attach to the vehicle and the Lot as a valid lien in favor of the persons, entities, or parties causing such removal. For the purpose of this section, "inoperable motor vehicle" shall mean any motor vehicle that is unable to operate in a normal manner upon the streets under its own power, or is unlicensed or unregistered for a period of not less than six (6) weeks.

2.17. **Rules and Regulations.** The Board of Directors shall have the authority to promulgate rules and regulations for the governance of the Property and persons within the Property. These rules of the Association shall be compiled and copies shall be made available by the Directors for inspection and copying at a reasonable cost.

2.18. **Leases and Leasing.** Leasing is permitted within the Property. Any lease or rental agreement shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, the Articles of Incorporation, Bylaws and any rules and regulations of the Association and that any failure by lessee to comply with the terms of such documents shall be a default under the lease. The Board of Directors of the Association may adopt, by rule or resolution, provisions regarding the leasing or renting of homes within the Property, including, but not limited to requiring minimum lease periods or otherwise prohibiting any the leasing or renting within the Property if the same is necessary to keep the Property from deteriorating into a transient-like community of non-owner occupied homes.

2.19. **Declarant Business, Construction, Marketing, and Sales.** It shall be expressly permissible for Declarant, or its written designee, to maintain such facilities and conduct such activities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the construction of homes and sale of Lots during the Development Phase, and upon such portion of the Property including lots or Common Area, if any, as Declarant deems necessary, including but not limited to, a business office, storage areas, construction yard, signs,

model units and sales offices. As part of the overall program of development of the Property into a residential community and to encourage the marketing thereof, the Declarant shall have the right of use of any lots or any Common Area and facilities thereon, including any Common Area, community buildings, without charge during the sales and construction period to aid in its marketing activities.

ARTICLE 3
ARCHITECTURAL CONTROL

3.1. **Architectural Control Committee.** Prior to the commencement of any excavation, construction or remodeling of any structure or of any addition to any structure, or modification of the natural topography of any Lot, or installation of fences or landscaping elements, approval of the Architectural Control Committee ("ACC") is required.

3.1.1. **Appointment and Membership.** The ACC shall consist of a minimum of three (3) persons. During the Development Phase, the Declarant shall be entitled to appoint all members of the ACC. Thereafter, the ACC shall consist of the Board of the Association or of three (3) persons appointed by the Board.

3.1.2. **Procedural Rules and Regulations.** The ACC shall adopt reasonable rules and regulations for the conduct of its proceedings and to carry out its duties and may fix the time and place for its regular meetings and such extraordinary meetings as may be necessary, and shall keep written minutes of its meetings, which shall be open for review and inspection upon request. The ACC shall, by majority vote, elect one of its members as chairman and one of its members as secretary and the duties of each will be such as usually appertain to such offices. Notice of meetings shall be given to Owners who have made application to the ACC for approval of plans.

3.1.3. **Submission of Plans.** Two (2) complete sets of building plans and specifications shall be filed with the ACC, together with a site or plot plan showing grading, landscaping and all lighting, indicating the exact part of the building site which the improvements will cover, with such a fee as the ACC may determine from time to time, and an application and such supporting material, such as samples of building materials, as the ACC deems necessary. No work shall commence unless and until the ACC shall endorse on one set of such plans its written approval that such plans are in compliance with the covenants herein set forth and with the standards herein or hereafter established by said ACC pursuant hereto. The second set of such plans shall be filed as a permanent record with the ACC.

3.1.4. **Rights of Approval.** The ACC shall have the right to refuse or approve any plans and specifications and shall have the right, in so doing, to take into consideration the suitability of the proposed building, the materials of which it is to be built, the site upon which

it is proposed to be erected, the harmony thereof with the surroundings, and the effect of said building, or other structure so planned, on the outlook from adjacent or neighboring property.

3.1.5. Architectural Standards. In addition to the architectural standards and guidelines established in this Article, the ACC may promulgate and maintain a list of standards for guidance in approving or disapproving plans and specifications pursuant to this Article.

3.1.6. Time Frame for Action. In the event the ACC fails to approve or disapprove in writing any plans within sixty (60) days after such plans are properly submitted to it for consideration in accordance with Section 3.1.3, then approval shall be deemed to have been given.

3.1.7. Non-Liability. The ACC shall not be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this Article, even where approval of any design may technically violate this Declaration. Any errors or omissions in the design of any building, other improvement or landscaping and any violation of any governmental ordinance are the sole responsibility of the Lot Owner and the Lot Owner's designer, architect, or contractor. The ACC's review of plans shall in no way be concerned with structural or mechanical integrity or soundness. The non-liability provided to the ACC in this Article shall extend to Declarant.

3.1.8. Waiver. The approval of the ACC of any plans and specifications for any work done or proposed shall not constitute a waiver of any right of the ACC to disapprove any similar plans and specifications subsequently submitted.

3.1.9. Compensation. Unless authorized by resolution of the Board, the members of the ACC shall not receive any compensation for services rendered. Members shall be entitled to reimbursement for reasonable expenses incurred by them in connection with the performance of any Committee function or duty. Professional consultants retained by the ACC shall be paid such compensation as the ACC determines.

3.1.10. ACC Enforcement. The ACC may levy a fine or penalty of up to Five Hundred Dollars (\$500.00) per day against any Owner who fails to refrain from violating these covenants or any rule of the ACC. The ACC shall provide five (5) days written notice and opportunity for the Owner to cure the violation prior to levying such fine or penalty. All fines and penalties levied and attorney fees, expenses, and costs incurred in collecting such fines and/or penalties shall constitute a lien on the Owner's Lot, and shall also be a personal obligation of the Owner, enforceable at law, until such payment therefor is made. Enforcement under this provision shall be in addition to any mechanism of enforcement provided in this Declaration or by applicable law.

3.1.11. Declarant Exemption. Declarant shall be exempt from the provisions, restrictions, and requirements of this Article, as the same exists or as it may be amended, supplemented, or replaced in accordance with other provisions of the Declaration.

3.2. Governmental Permit Required. No home, accessory or addition to a home, other structure or building shall be constructed or maintained, and no grading or removal of natural vegetation or change in natural or approved drainage patterns or installation of fencing or landscaping elements shall occur on a Lot until any required permit or required approval therefor is obtained from the appropriate governmental entity following submission to the appropriate governmental entity of such information as it may require. The granting of a permit or approval by any governmental entity with respect to any matter shall not bind or otherwise affect the power of the ACC to refuse to approve any such matter.

3.3. Design Restrictions and Guidelines. In order to promote a harmonious community development and protect the character of the Property, the following guidelines, together with any guidelines hereafter established by the ACC, are applicable to the Property:

3.3.1. Purpose and Intent. The intent of these restrictions and guidelines, and any guidelines hereafter established by the ACC pursuant to this Declaration, is to encourage a blending of styles within the Property with the natural surroundings and prevailing architecture of the created environment of the Property. These standards allow design latitude and flexibility, while ensuring that the value of the Property will be enhanced through the control of site planning, architecture and landscape elements. The restrictions and guidelines serve as an evaluative aid to Owners, builders, project developers, design professionals, City staff, the Planning Commission, City Council and the ACC in the design review of individual, private and public developments within the Subdivision. The Washington City Zoning Regulations will apply for any area of design not addressed in these restrictions and guidelines or any guidelines hereafter established by the ACC pursuant to this Declaration.

3.3.2. Permitted Structures. The only building or structure permitted to be erected, placed or located on any Lot within the Subdivision shall be a detached single family home placed within the building envelope for each Lot and not to exceed the height requirements found in this section. Each home must include a minimum two car, private, enclosed and attached garage. All construction shall be of new materials. All structures shall be constructed in accordance with the zoning and building ordinances of Washington City, Utah, in effect from time to time.

3.3.3. Minimum Area. The minimum total square footage of living area on the ground floor located within the building envelope and foundation for any single-story residential home constructed on any Lot within the Property shall be not less than 1,800 square feet, exclusive of porches, balconies, patios and garages. Two-story homes shall have a

minimum of 1,400 square feet on the main level, with a total square footage of not less than 2,100 square feet, exclusive of porches, balconies, patios and garages.

3.3.4. Setbacks. Minimum setback standards shall be in accordance with the setback standards established by the applicable zoning and subdivision ordinances of Washington City, Utah.

3.3.5. Building Height. Maximum building height shall be in accordance with the standards established by the applicable zoning and subdivision ordinances of Washington City, Utah.

3.3.6. Facades. Facades shall be stucco, masonry, brick or stone, with accents of brick, stone, or such other material as approved by the ACC.

3.3.7. Roof Materials. Roof material shall be limited to slate, clay, or concrete tiles. Colors shall be subdued earth tones or such other colors as may be allowed by the ACC.

3.3.8. Reflective Exterior Surfaces or Materials. No reflective exterior surfaces or materials shall be used. Sheet metal, flashing, vents and pipes must be colored or painted to match the material to which they are attached or from which they project.

3.3.9. Colors. Base building colors shall be in earth tones. Pastels or high gloss finishes may not be used. Complementary accent colors can be used on facia, window trim, shutters and doors.

3.3.10. Prohibited Structures. Dome structures, log homes, pre-manufactured homes; re-located homes; and Earth or Berm homes of any type are not allowed.

3.3.11. Temporary or Other Structures. Except as otherwise provided herein, no structure of a temporary nature, and no trailer, bus, basement, outhouse, tent, shack, garage, shed, or other outbuilding shall be used at any time as a home either temporarily or permanently, nor shall any such structures be erected or placed on the Property at any time. No old or second-hand structures shall be moved onto any of said Lots. It is the Declarant's intention that all homes and other buildings to be erected within the subdivision be new construction, of good quality, workmanship, and materials.

3.3.12. Accessory Buildings. Storage or utility buildings are allowed, provided, however, that such buildings are of new construction, of a color that complies with the architectural guidelines set forth in this Declaration, and are approved by the ACC prior to construction or placement on any Lot. The ACC may establish reasonable rules, regulations and guidelines, including height and size limitations, to govern the placement and construction of such buildings.

3.3.13. Driveways and Parking. Each driveway on a Lot shall be constructed out of cement, brick, concrete, or interlocking pavers. Cinders, sand, gravel, asphalt or dirt shall not be permitted for driveway material in the front and side yard area of any Lot. The driveway in the front and side yard areas of each Lot shall be in a color which blends with the exterior of the structure located on such Lot.

3.3.14. Fencing and Walls. Fencing, walls and other barriers shall be approved by the ACC and constructed of an approved material and color. No fences shall be constructed in the front setback area. Retaining walls are restricted to a maximum height of five (5) feet, unless otherwise approved by the ACC. The ACC may condition approval of a retaining wall higher than five (5) feet on the wall being tiered and/or landscaping being installed to hide the retaining wall.

3.3.15. External Illumination. Light used to illuminate garages, patios, parking areas or for any other purposes, shall be so arranged as to reflect light away from adjacent homes and away from the vision of passing motorists. Low level outdoor illumination may be used for particular landscape features (trees, rock formations, etc.).

3.3.16. External Television or Other Antennas. Except for satellite dishes which do not exceed one meter in diameter, antennas for radio, television, or device for the reception or transmission of radio, microwaves or other similar signals are restricted to the attic or interior of the home. To the extent not prohibited by law, Owners must obtain prior approval from the ACC as to the location where a permitted satellite is to be installed and every attempt must be made to install the same in a location where it is not visible from neighboring properties. It is mandatory that all homes be pre-wired for cable reception.

3.3.17. Location of Air Conditioning, Heating, and Soft Water Equipment. Air conditioning, heating equipment, and soft water tanks must be screened from view so as not to be visible from neighboring property or from the streets of the development, and shall be insulated for sound attenuation. Air conditioning units are not permitted on roofs or through windows.

3.3.18. Utility Meters. Utility meters shall be placed in as inconspicuous a location as possible. Locations of meters are to be shown on the plans, and meters must be screened from view from neighboring property. Exposed piping should be painted to match exterior colors of the home. The area immediately around the meters should be cleared to allow for access. Electric meters, switches, or circuit breaker boxes are not to be located in the same enclosure with the gas meter and regulator. Enclosures for gas meters and regulators are to be vented in compliance with the Uniform Building Code.

3.3.19. Mailboxes. Declarant shall install cluster mailboxes. Said cluster mailboxes shall be the only allowed mail receptacles.

3.3.20. External Apparatus. No Lot Owner shall cause or permit anything (including, without limitation, awnings, canopies or shutters) to hang, be displayed or otherwise affixed to or placed on the exterior walls or roof or any part thereof, or on the outside of windows or doors, without the prior written consent of the ACC.

3.3.21. Landscaping. Landscaping shall be completed in accordance with the landscape plan submitted to and approved by the ACC prior to construction of the home, and may include but shall not be limited to the preparation for the planting of lawn, grass or other appropriate ground cover, and appropriate shrubbery. Each landscape plan shall include and provide for the planting of trees in the front yard which shall be maintained by the Lot Owner. The ACC shall established a master design plan to govern the types and species of trees that shall be allowed and the placement of such trees for the purpose of establishing a street-scape on individual streets within the Subdivision. Lots which are to be landscaped in a desert motif must be approved by the ACC. Limited use of cinders may be made in the landscaping on a Lot, only as approved by the ACC. The ACC may establish reasonable rules, regulations and guidelines to govern landscaping design. The approval of any landscape plan or design by the ACC is solely an approval of the plan or design for aesthetic purposes and is in no way an approval of the design for drainage or other issues, which are the sole responsibility of a Lot Owner to address and ensure in accordance with applicable law.

3.3.22. Planting and Gardening. Planting and gardening is allowed provided that gardens and planting areas are continuously maintained and do not become vacant areas that allow for the growth of noxious weeds.

3.3.23. Slope and Drainage Control. No structure, planting or other material shall be placed or permitted to remain or other activities undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels. The slope control areas of each Lot and all improvements in them shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible. Lot Owners are solely responsible to see that no nuisance or damage is created by drainage location or flow to any adjacent property.

3.3.24. Lateral and Subjacent Support and Drainage. An Owner's activities which affect the lateral or subjacent support, or both, of adjacent landowners shall be responsible for damages proximately caused by such activities. Owners shall be responsible for all damage proximately caused by drainage from their Lot(s) to adjacent landowners.

3.3.25. Signs: Commercial Activity. Except for one "For Rent" or "For Sale" sign of not more than two (2) square feet, no advertising signs, billboards, objects of unsightly appearance, or nuisances shall be erected, placed, or permitted to remain on any Lot or any portion of the Property. The Association shall have the right to remove any sign that is outside

of a Lot Owner's home and which is in violation of this section. No commercial activities of any kind whatever shall be conducted in any building or on any portion of the properties. The foregoing restrictions shall not apply to the commercial activities, signs and billboards, if any, of the Declarant or its agents during the construction and sales period or by the Association in furtherance of its powers and purposes set forth hereinafter and in its Articles, Bylaws and rules and regulations, as the same may be amended from time to time.

3.4. Construction and Contractor Provisions. In order to promote a harmonious community development and protect the character of the Subdivision, the following guidelines which are applicable to the Property:

3.4.1. Completion of Construction. The construction of any building on any portion of the Property shall be continuously and diligently pursued from and after the commencement of such construction, and in any event shall be substantially completed within six months after such commencement. Notwithstanding the foregoing, and unless good cause is shown to the ACC, every Lot Owner shall complete construction of their home within eighteen months after they have been conveyed their Lot. The ACC may establish a schedule of fines for Lot Owners who fail to complete construction within the time frames required herein.

3.4.2. Building Materials Storage. No Lot, part or portion of the Property shall be used or maintained as storage for building materials except during a construction phase. Once a home is occupied or made available for sale all building materials shall be removed or stored inside such home, out of public sight.

3.4.3. Landscaping. Front yard landscaping shall be complete prior to occupancy.

3.4.4. Soils Test. Lot Owners are encouraged to and Declarant strongly recommends that they obtain a soils test and recommendation on foundation from a Utah registered engineer prior to construction. The ACC may require that the Lot Owner obtain a soils test and recommendation on foundation prior to the final approval. Furthermore, the ACC may condition final approval following the recommendations set forth in the soils test document. By approving the commencement of construction after review of any soils test and recommendation, the ACC is not warranting and shall not be deemed to have warranted the results of such test or recommendation. Lot Owners assume all responsibility for any damage or issues caused by soil or water conditions on their Lot. Declarant discourages the building and construction of basements.

3.4.5. Damages. Any damage inflicted on existing improvements such as curbs, gutters, streets, concrete sidewalks and such, by the Owner and/or their agents of any particular Lot in the subdivision must be repaired within thirty (30) days after such damage is discovered, and the expense of such repair shall be borne by the purchaser or Owner.

3.4.6. Maintenance of Lot During Construction. Contractors or subcontractors as owner/builders must provide on-site dumpsters during construction and are required to clean up the site daily to maintain a clean work site during construction. Dirt or mud from the construction site or elsewhere, dispersed, directly or indirectly, on the public streets within the Property must be cleaned up within twenty-four (24) hours by the contractor or subcontractor as owner/builder. The ACC may levy up to a Five Hundred Dollar (\$500) fine against a violator of this subsection and/or the Owner of the Lot for each day of a continuing violation. The fine shall be a charge on the land and shall be a continuing lien on the Lot.

3.5 **Declarant Liability; Release and Indemnification.** Declarant is not an insurer of the suitability of any Lot for construction and assumes no responsibility whatsoever for any construction undertaken on any Lot, including but not limited to any soils conditions existing on any Lot. Each Lot Owner covenants for himself and his successors and assigns that he shall and hereby does assume all risks associated with the soil conditions existing on the Lot, including, but not limited to, the risk of property damage, personal injury, or other loss arising therefrom and releases and shall indemnify and hold harmless the Association, the Declarant, and each of their respective officers, directors, partners, members, predecessors, successors, assigns, parents, affiliates, subsidiaries, and the agents and employees of any of them, from any liability, claims, or expenses, including attorneys' fees, arising from any such property damage, personal injury, or other loss.

ARTICLE 4

ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

4.1. **Membership.** Each Lot Owner shall be a member of the Association. Membership in the Association automatically transfers upon conveyance of a Lot by the recorder Owner thereof to another person or entity.

4.2. **Voting Rights; Classes.** The Association shall have one class of voting membership. All members are entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, the group of such persons shall be a member. 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.

ARTICLE 5

FINANCES AND OPERATIONS

5.1. **Creation of Lien and Personal Obligation of Assessment.** The Declarant and each subsequent Owner of any Lot by acceptance of a deed or conveyance therefor, whether or not it shall be so expressed in any such deed or other conveyance, covenants and agrees to pay

to the Association, assessments or charges and interest, costs of collection and reasonable attorney fees, as hereinafter provided. All such amounts shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment or amount is charged. Such assessments and other amounts shall be the personal obligation of (a) the person who was the Owner of such Lot at the time when the assessment fell due and (b) successors-in-title who took title when assessments were delinquent.

5.2. **Purpose of Assessments.** The assessments levied by the Association shall be used by the Association for the improvement, maintenance, repair, and preservation of the Common Area. The assessments must provide for but are not limited to, the payment of taxes on Association property and insurance maintained by the Association; the payment of the cost of repairing, replacing and maintaining the Common Area; the payment of administrative expenses of the Association; payment of insurance deductible amounts; the establishment of a reserve account for repair, maintenance and replacement of the Common Area which must be replaced on a periodic basis; the payment of any professional services deemed necessary and desirable by the Board; and other amounts required that the Board shall determine to be necessary to meet the primary purposes of the Association.

5.3. **Calculation of Annual Assessments.** The Board of Directors shall prepare a budget before the close of each fiscal year of the Association for the purpose of calculating and establishing the annual assessments for the subsequent fiscal year. Annual assessments for common expenses shall be based upon the estimated net cash flow requirements of the Association to cover items including, without limitation, the cost of routine maintenance and operation of the Common Area; expenses of management; premiums for insurance coverage as deemed desirable or required by Utah State Law; landscaping, care of grounds, common lighting within the Common Area; insurance, wages; common water and utility charges for the Common Area; legal and accounting fees; management fees; expenses and liabilities from a previous assessment period; and the supplementing of the reserve fund for general, routine maintenance, repairs, and replacement of the Common Area on a periodic basis.

5.3.1. Townhouse and single family homes may be assessed at different rates. However, the Board of Directors must provide reasoning for the difference such as the insurance requirements of the townhomes are different than the single family homes.

5.4. **Insurance.** The board shall secure, and at all times maintain, insurance according to Utah State Law or the following insurance coverage:

5.4.1. Multi-peril policies of fire and casualty insurance, with extended coverage and all other coverage in the kinds and amounts commonly required by private institutional Mortgage investors for projects similar in

construction, location, and use on a replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based upon replacement costs). Each such policy shall contain the standard Mortgage clause which must be endorsed to provide that any proceeds shall be paid to the Association for the use and benefit of Mortgagees as their interests may appear. The insured shall be the Association.

5.4.2. A comprehensive policy of public liability insurance insuring the Association, the Management Committee, the Manager, and the Unit Owners against any liability incident to ownership, use, or operation of the Common Areas and public ways of the Project, or any Unit which may arise among themselves, to the public, or to any invitees or tenants of the Project or of the Unit Owners. Limits of liability under such insurance shall be not less than Three Hundred Thousand Dollars (\$300,000.00) per occurrence, for personal property injury and/or property damage. Such insurance policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Unit Owner because of any negligent act of the Association or other Unit Owners. The scope of the coverage must include all other coverage in the kinds and amounts required by private institutional Mortgage investors for similar projects in location, construction and use. c. The Association shall maintain fidelity coverage to protect against dishonest acts on the part of Management Committee members, Manager, employees, or volunteers responsible for handling funds belonging to or administered by the insured and shall be written in the amount sufficient to provide protection which in no event shall be less than one-half times the insured's estimated annual operating expenses and revenues. In connection with such coverage an appropriate endorsement to the policy to cover any person who the following additional provisions shall apply with respect to insurance:

- i. In addition to the insurance and bond coverage described above, the Management Committee shall secure and at all times maintain insurance against such risks as are, or hereafter may be, customarily insured against in connection with all projects similar to the Project in construction nature or use.
- ii. The Management Committee shall have the authority to adjust losses.
- iii. Insurance secured and maintained by the Management Committee shall not be brought into contribution with insurance held by individual Unit Owners or their Mortgagee.

- iv. Each policy of insurance obtained by the Management Committee shall provide:
 - a) standard mortgagee clause commonly accepted by private institutional Mortgage investors in the area in which the Project is located;
 - b) a waiver (if available) of the insurer's subrogation rights with respect to the Management Committee, the Manager, the Unit Owners, and their respective servants, agents and guests;
 - c) that cannot be cancelled, suspended, or invalidated due to the conduct of any particular Unit Owner or Owners;
 - d) that cannot be cancelled, suspended, or invalidated due to the conduct of any member, officer, or employee of the Management Committee, or the Manager without a prior written demand that the defect be cured;
 - e) that any "no other insurance clause" therein shall not apply with respect to insurance held individually by the Unit Owners; and
 - f) that a Mortgage clause endorsement which must provide that the insurance carrier shall notify the first Mortgagee (or trustee) named at least ten (10) days in advance of the effective date of any reduction in, or cancellation of, the policy.
- v. Any Unit Owner may obtain additional insurance at his own expense, as long as such additional insurance does not have the effect of overriding or canceling insurance purchased by the Management Committee.
- vi. The Project is not located in an area identified by the Secretary of Housing and Urban Development as an area having specialized flood hazards. In the event that at some future time the Project should be declared to be in such flood area, a blanket policy of

flood insurance on the Project shall be maintained in the amount of the aggregate of the outstanding principle balance of the Mortgage loans on the Units comprising the Project, or of the maximum coverage limit available under the National Flood Insurance Act of 1968, as amended, whichever is less. The name of the insured under each required policy must be, at any given time, in the form and substance required by the Federal Home Loan Mortgage Corporation.

5.5. Special Assessments for Capital Improvements. In addition to the annual assessments, the Association may levy in any assessment year a special assessment, applicable to that year only. Special assessments may only be levied to defray, in whole or in part, the cost of any construction, reconstruction, repair or replacement of the Common Area. Special assessments must have the assent of sixty percent (60%) of the votes of the Lot Owners voting in person or by proxy, at a meeting duly called for this purpose.

5.6. Uniform Rate of Assessment. Assessments must be fixed at a uniform rate for the townhouse and another fixed uniform rate for the single family home; provided, however, that assessments shall not accrue against the Declarant or Lots owned by the Declarant.

5.7. Date of Commencement of Annual Assessments; Due Dates.

5.7.1. The Board shall establish the assessment due dates under which assessment shall be paid on a monthly, quarterly, or annual basis.

5.7.2. The assessments provided for herein shall commence to accrue on the first day of the month following conveyance of a Lot to a bona fide purchaser. The first assessment shall be adjusted according to the number of months remaining in the calendar year.

5.7.3. At least thirty (30) days prior to the commencement of each new annual assessment period, the Directors shall send or cause to be sent a written notice of the annual assessment to each Owner subject thereto, and on which date(s) the assessment shall be due and payable. This notice shall not be a pre-requisite to validity of the assessment; however, no interest or late charges may accrue against any Lot in the absence of such a notice.

5.7.4. The Directors shall prepare a roster of Lot Owners in the Subdivision and the assessments applicable thereto at the same time that it shall fix the amount of the assessment. This roster shall be kept by the Secretary of the Association, who shall record payments of assessments and shall allow inspection of the roster by any Lot Owner at reasonable times.

5.7.5. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessment on a specified Lot has been paid. Such certificates, when properly issued, shall be conclusive evidence of the payment of any assessment or fractional part thereof which is therein shown to have been paid.

5.8. Effect of Nonpayment of Assessment; Remedies of Association.

5.8.1. Any assessment or installment thereof not paid within thirty (30) days after the due date therefor shall be delinquent and shall bear interest from the due date at the rate of twelve percent (12%) per annum (or such lesser rate as the Directors shall set by resolution) until paid. In addition, a late fee for each delinquent installment that shall not exceed twenty percent (20%) of the delinquent installment. There shall be added to the amount of any delinquent assessment the costs and expenses of any action, sale or foreclosure, and reasonable attorney fees incurred in enforcing and collecting said delinquent assessment.

5.8.2. To enforce payment of the assessment, interest, and late fees, the Directors may, in the name of the Association, (a) bring an action at law against the Owner personally obligated to pay any such delinquent assessment without waiving the lien of assessment; (b) foreclose the lien against the property in accordance with the laws of the State of Utah applicable to the exercise of powers of sale in deeds of trust or to the foreclosure of mortgages, or in any other manner permitted by law; (c) restrict, limit, or totally terminate any or all services performed by the Association in behalf of the delinquent member; (d) suspend the voting rights of the Owner for any period during which any assessment or portion thereof against the Owner's Lot remains unpaid; and/or (e) accelerate all assessment installments that will become due within the subsequent twelve (12) months so that all such assessments for that period become due and payable at once. The acceleration provision in subsection (e) may only be invoked against an Owner who has been delinquent in paying any assessment or installment two (2) or more times within a twelve (12) month period.

5.8.3. A power of sale is hereby conferred upon the Association that it may exercise. Under the power of sale the Lot of an Owner may be sold in the manner provided by Utah law pertaining to deeds of trust as if said Association were beneficiary under a deed of trust. The Association may designate any person or entity qualified by law to serve as Trustee for purposes of power of sale foreclosure.

5.8.4. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or by abandonment of the Lot.

5.9. **Subordination of Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage held by an institutional lender. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of a first mortgage or any proceeding in lieu thereof, shall extinguish the assessment lien as to payments which became due prior to such sale or transfer. No sale or transfer, however, shall relieve an Owner from personal liability for assessments coming due after he takes title or from the lien of such later assessments.

5.10. **Books, Records, and Audit.** The Association shall maintain current copies of the Declaration, Articles, Bylaws, any rules and regulations, and other similar documents, as well as its own books, records and financial statements which shall all be available for inspection by Lot Owners and insurers as well as by holders, insurers and guarantors of first mortgages during normal business hours upon reasonable notice. Charges shall be made for copying, researching or extracting from such documents. A Lot Owner or holder, insurer or guarantor of a first mortgage may obtain an audit of Association records at its own expense so long as the results of the audit are provided to the Association.

ARTICLE 6 ENFORCEMENT

6.1. **Violation Constitutes Nuisance.** Every act or omission whereby any restriction, covenant or condition set forth in this Declaration is violated in whole or in part, is declared to be and shall constitute a nuisance, and may be abated by appropriate legal action by the Declarant, the Association, or a Lot Owner or Owners. The remedies provided for hereunder shall be deemed cumulative and not exclusive.

6.2. **Enforcement.**

6.2.1. Each and all of the restrictions, covenants and conditions contained in this Declaration is and are for the benefit of the Declarant, the Association, and each Owner of any Lot, part or portion of the Property. Each such restrictive covenant and condition shall inure to the benefit of and pass with each and every Lot, part or portion of the Property and shall apply to and be binding upon each and every successor in interest. Said restrictions, covenants and conditions are and shall be deemed covenants of equitable servitude, and the actual or threatened breach thereof, or the continuance of any such breach, or compliance therewith, may be enforced, enjoined, abated, or remedied by appropriate proceedings at law or in equity by the Declarant, the Association, or any Lot Owner; *provided, however,* that no such breach shall affect or impair the lien of any bona fide mortgage or trust deed which shall have been given in good faith and for value, except that any subsequent Owner of said Lot, part or

portion of the Property shall be bound and obligated by the said restrictions, covenants and conditions, whether such ownership is obtained by foreclosure, at a trustee's sale, or otherwise.

6.2.2. The Board may levy a fine or penalty not to exceed fifty percent (50%) of the amount of the maximum annual assessment against any Owner who fails to refrain from violation of these covenants or a rule of the Association. A fine may be levied for each day of a continuing violation. All attorney fees and costs incurred in any such action, and all expenses incurred and any fines levied, shall constitute a lien on such Owner's Lot, and shall also be a personal obligation of said Lot Owner, enforceable at law, until such payment therefor is made. The Board shall provide five (5) days written notice and opportunity for the Owner to cure the violation prior to levying such fine or penalty. For purposes of this section, any violation that continues for more than thirty (30) days after written notice of the violation is provided constitutes a separate and continuing violation. No further notice is required to be given to an Owner for a continuing violation.

ARTICLE 7 EASEMENTS

7.1. **Easements.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation, maintenance or replacement of utilities, or which may change the direction or flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Lot Owner, except for those improvements for which a public authority or utility company is responsible. The Lot Owner shall from time to time as may be reasonably required grant rights over, across, on, under and upon these easements for such additional uses and services as may be provided from time to time by a public authority or private utility company.

7.2. **Repair Easements.** Each Lot shall be subject to an easement for access to make repairs upon adjoining Lots and structures; provided however, that: (a) any damage caused by such entry shall be repaired at the expense of the Owner whose property was the subject of the repair work which caused the same; (b) any such entry shall be made only at reasonable times and with as little inconvenience as possible to the Owner of the entered Lot; and (c) in no event shall said easement be deemed to permit entry into the interior portion of any home.

7.3. **Easements of Record.** The easements provided for in this Article and elsewhere in this Declaration shall in no way affect any other recorded easement.

ARTICLE 8
AMENDMENT AND EXPANSION

8.1. **Amendment.** This Declaration may be amended, modified, extended, or revoked, in whole or in part, upon the written consent of Lot Owners holding at least seventy-five percent (75%) of the votes of the Association. Any proposed amendment shall be sent to every Lot Owner at least thirty (30) days in advance of seeking such consents and consents must be obtained within a 180-day period thereafter. Any amendment, modification, termination, or revocation shall be immediately effective upon recording in the office of the Washington County Recorder a copy of such amendment, modification, termination, or revocation accompanied by a verified certificate of the Secretary of the Association stating that the required number of consents were obtained and that such consents will be placed on file in the Association's office. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration. Notwithstanding the above, the Declarant may unilaterally amend, modify, extend, or revoke this Declaration, in whole or in part, during the Development Phase.

8.2. **Amendment by Owners During Development Phase.** No amendment made by the Lot Owners during the Development Phase shall be effective unless the Declarant provides its prior express written consent to such amendment, which consent is within Declarant's sole and absolute discretion.

8.3. **Annexation/Expansion.** The Declarant may unilaterally subject additional property to this Declaration. The Declarant shall indicate its intent to have such property bound by this Declaration on the plat of such additional property and shall record a declaration of annexation including and subjecting such property to this Declaration. Thereafter, such additional property shall be considered as part of the Property in all respects, and lots therein shall constitute Lots under this Declaration. This right of the Declarant shall be assignable to one or more assignees.

8.4. **Mingle.** The previous phases of the Millcreek Master Plan development are not subject to this declaration. If allowed by the other declaration, the previous phases of the Millcreek Master Plan Development may be annex into this Declaration. Thereafter, such previous phases shall be considered as part of the Property in all respects, and lots therein shall constitute Lots under this Declaration.

ARTICLE 9
GENERAL PROVISIONS

9.1. **Duration of Covenants.** The covenants, conditions, and restrictions contained herein shall run with and bind the land for a period of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each, subject to amendment as herein set forth.

9.2. **Notices.** Any notice required under the provisions of this Declaration to be sent to any Lot Owner shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of such Owner. Lot Owners shall be responsible for providing their addresses to the Board, and, unless otherwise indicated by a Lot Owner, the address for notice to Lot Owners shall be the mailing address designated for the Owner's Lot.

9.3. **Construction and Severability.** All of the covenants, conditions, and restrictions contained in this Declaration shall be construed together. Invalidation of any one of said restrictions, covenants or conditions, or any part thereof, shall not affect the enforceability or applicability any of the remaining restrictions, covenants or conditions, or parts thereof.

9.4. **Assignment of Powers.** Any and all rights and power of the Declarant herein contained may be delegated, transferred or assigned.

9.5. **Gender and Grammar.** The singular, wherever used herein, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.


9.6. **Waivers.** No provision contained herein shall be deemed to have been waived by reason of any failure to enforce it, irrespective of the number of violations that may occur.


9.7. **Topical Headings.** The topical headings contained herein are for convenience only and do not define, limit, or construe the contents of these covenants.

IN WITNESS WHEREOF, the undersigned has hereunto executed this Declaration this
30th day of JULY, 2012.

DECLARANT:

MILL GATE HOLDINGS, L.L.C.,
a Utah limited liability company

By: 

Its: 

[Notary acknowledgement on following page]

STATE OF UTAH)
) ss.
COUNTY OF WASHINGTON)

On this 30th day of JULY, 2012, before me personally appeared PAUL J. REAM, whose identity is personally known to me or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that he is a Member [the Manager] of Mill Gate Holdings, L.L.C., a Utah limited liability company and that the foregoing document was signed by him on behalf of that Company by proper authority and he acknowledged before me that the Company executed the document and the document was the act of the Company for its stated purpose.

Marissa B. Carter
NOTARY PUBLIC
Address: ST. GEORGE, UT
My Commission Expires: 11-21-15



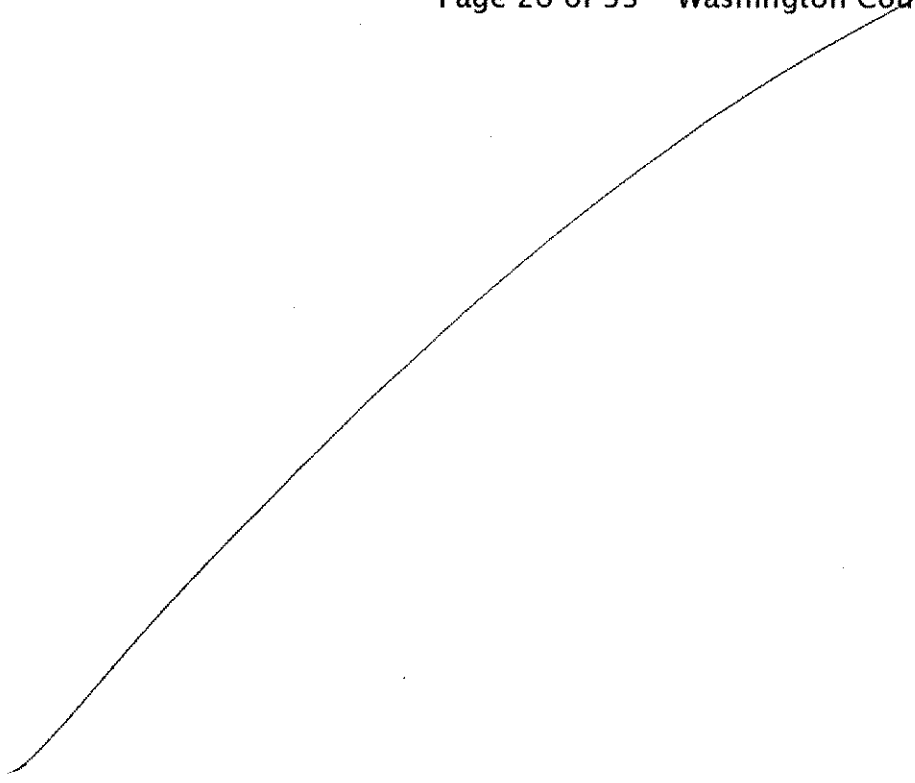
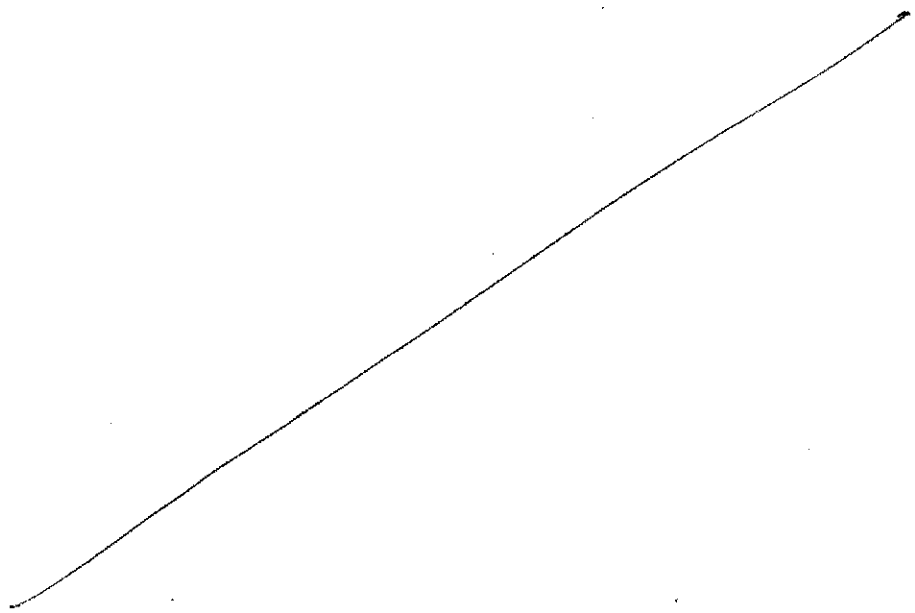


EXHIBIT "A"
[Legal Description]



[Legal Description]

BEGINNING AT A POINT N 89°45'58" W 1147.75 FEET ALONG THE NORTH SECTION LINE OF SECTION 15, TOWNSHIP 42 SOUTH, RANGE 15 WEST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 314.25 FEET TO A SOUTHWEST CORNER OF MILLCREEK SPRINGS SUBDIVISION PHASE 1, RECORDED AND ON FILE AT WASHINGTON COUNTY RECORDERS OFFICE, STATE OF UTAH, FROM THE NORTHEAST CORNER OF SAID SECTION; AND RUNNING THENCE ALONG SAID SUBDIVISION THE FOLLOWING FOUR (4) COURSES, 1) THENCE N 75°03'49" E 187.66 FEET; 2) THENCE S 15°43'55" E 57.84 FEET; 3) THENCE S 45°34'57" W 45.79 FEET; 4) S 28°11'28" E 85.00 FEET TO A POINT ON A 350.00 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT, WITH A RADIUS WHICH BEARS S 28°11'28" E WHICH POINT IS ALSO ON THE BOUNDARY OF MILLCREEK SPRINGS TOWNHOMES-AMENDED, RECORDED AND ON FILE AT WASHINGTON COUNTY RECORDERS OFFICE, STATE OF UTAH; THENCE ALONG SAID BOUNDARY THE FOLLOWING THIRTEEN (13) COURSES, 1) ALONG THE ARC OF SAID CURVE 34.25 FEET THROUGH A CENTRAL ANGLE OF 5°36'23"; 2) THENCE S 56°12'09" W 177.88 FEET TO A POINT ON A 316.00 FOOT RADIUS CURVE TO THE LEFT; 3) THENCE 49.35 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 8°56'51"; 4) THENCE S 42°44'42" E 32.00 FEET TO A POINT ON A 284.00 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT, WITH A RADIUS WHICH BEARS S 42°44'42" E; 5) THENCE ALONG THE ARC OF SAID CURVE 13.61 FEET THROUGH A CENTRAL ANGLE OF 2°44'46", TO A POINT ON A 316.00 FOOT RADIUS CURVE TO THE RIGHT; 6) THENCE ALONG THE ARC OF SAID CURVE 30.27 FEET THROUGH A CENTRAL ANGLE OF 5°29'22"; 7) THENCE S 28°20'07" E 282.17 FEET; 8) THENCE S 24°12'55" E 32.80 FEET; 9) THENCE S 43°27'55" E 93.61 FEET; 10) THENCE S 74°22'40" E 68.05 FEET; 11) THENCE N 59°15'07" E 92.65 FEET; 12) THENCE S 30°48'42" E 112.58 FEET TO A POINT ON A 134.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT, WITH A RADIUS WHICH BEARS S 22°54'44" E; 13) THENCE ALONG THE ARC OF SAID CURVE 63.32 FEET THROUGH A CENTRAL ANGLE OF 27°04'22"; THENCE S 18°46'52" E 66.32 FEET; THENCE S 52°18'27" W 36.93 FEET; THENCE S 52°18'27" W 64.92 FEET; THENCE S 57°15'27" W 117.84 FEET; THENCE N 79°27'11" W 140.09 FEET; THENCE N 72°29'41" W 64.37 FEET; THENCE S 34°51'55" W 26.78 FEET; THENCE S 68°53'29" W 32.34 FEET; THENCE N 66°59'31" W 36.07 FEET; THENCE N 42°43'21" W 122.68 FEET; THENCE N 33°10'34" W 4.80 FEET; THENCE N 61°28'28" W 5.63 FEET; THENCE N 21°42'27" W 143.93 FEET; THENCE N 28°20'07" W 31.93 FEET; THENCE N 78°10'17" W 10.37 FEET; THENCE N 71°52'19" W 19.18 FEET; THENCE N 27°46'08" W 51.28 FEET; THENCE N 33°09'21" W 49.73 FEET; THENCE N 47°38'52" W 23.68 FEET; THENCE N 74°12'07" W 37.44 FEET; THENCE N 24°22'17" W 79.40 FEET; THENCE N 31°19'42" W 148.63 FEET; THENCE N 12°47'46" W 62.17 FEET; THENCE N 14°13'49" E 57.52 FEET; THENCE N 2°58'51" W 81.56 FEET; THENCE N 9°14'27" E 124.74 FEET; THENCE N 26°39'39" E 109.50 FEET; THENCE N 69°02'14" E 20.85 FEET; THENCE S 74°33'27" E 11.03 FEET; THENCE S 50°57'20" E 34.82

FEET; THENCE S 76°36'24" E 19.26 FEET; THENCE N 62°12'57" E 90.35 FEET; THENCE S 72°29'31" E 114.81 FEET TO A POINT ON THE WESTERLY BOUNDARY OF MILLCREEK SPRINGS SUBDIVISION PHASE I; THENCE S 27°29'31" E 114.81 FEET TO THE POINT OF BEGINNING.
CONTAINS 9.64 ACRES

**FIRST AMENDMENT
TO
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**

a residential subdivision located in
Washington City, Utah

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR MILLCREEK SPRINGS SUBDIVISION ("First Amendment") is being made on the date set forth herein below, with reference to the following facts:

NOW, THEREFORE, pursuant to Article 8, Section 8.1. of the Declaration, Article 3, Section(s) 3.3.3 and 3.3.6, and 3.3.21. of the Declaration are hereby amended so that they read as follows:

Section 3.3.6. Facades. Facades shall be stucco, masonry, brick or stone, with accents of brick, stone, or such other material as approved by the ACC. Twenty Five percent (25%) of the front facade shall be stone, rock, or brick.

Section 3.3.21. Landscaping. Landscaping shall be completed in accordance with the landscape plan submitted to and approved by the ACC prior to construction of the home, and may include but shall not be limited to the preparation for the planting of lawn, grass or other appropriate ground cover, and appropriate shrubbery. Each landscape plan shall include and provide for the planting of trees in the front yard which shall be maintained by the Lot Owner. Limited use of cinders may be made in the landscaping on a Lot, only as approved by the ACC. The ACC may establish reasonable rules, regulations and guidelines to govern landscaping design. The approval of any landscape plan or design by the ACC is solely an approval of the plan or design for aesthetic purposes and is in no way an approval of the design for drainage or other issues, which are the sole responsibility of a Lot Owner to address and ensure in accordance with applicable law.

In all other respects, the Declaration shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the undersigned have caused this First Amendment to be executed
this 30th day of JULY, 2012

DECLARANT:

Mill Gate Holdings, L.L.C.,
A Utah Limited Liability Company

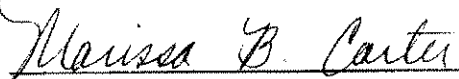
By: 

Its: manager

STATE OF UTAH

COUNTY OF WASHINGTON

On this 30th day of JULY, 2012, before me personally appeared
PAUL J. REAM, whose identity is personally known to me or proved
to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did
say that he is a Member [the Manager] of Mill ^{GATE} Creek Holdings, L.L.C., a Utah limited liability
company and that the foregoing document was signed by him on behalf of that Company by
proper authority and he acknowledged before me that the Company executed the document and
the document was the act of the Company for its stated purpose.


NOTARY PUBLIC
Address: ST. GEORGE, UT
My Commission Expires: 11-21-15

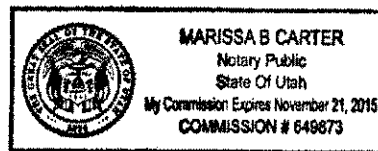
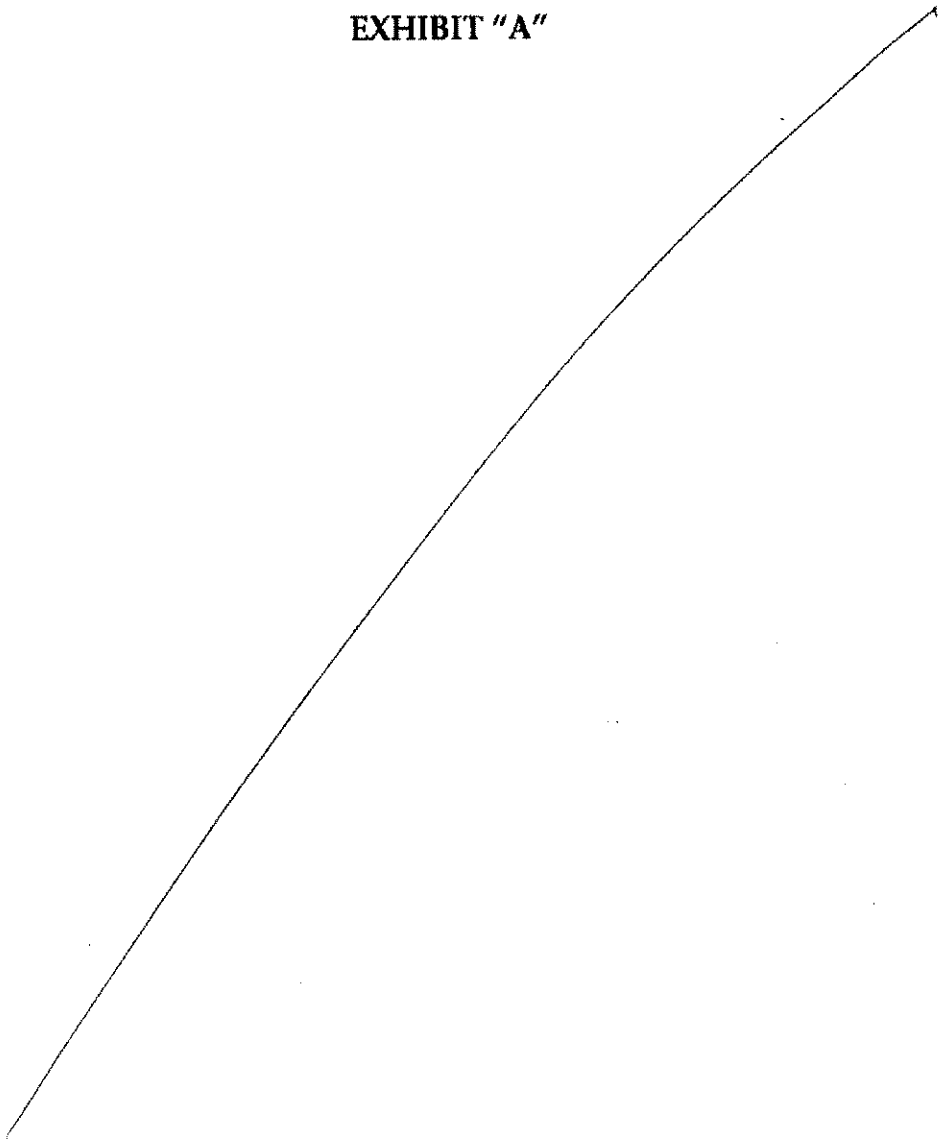


EXHIBIT "A"



[Legal Description]

BEGINNING AT A POINT N 89°45'58" W 1147.75 FEET ALONG THE NORTH SECTION LINE OF SECTION 15, TOWNSHIP 42 SOUTH, RANGE 15 WEST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 314.25 FEET TO A SOUTHWEST CORNER OF MILLCREEK SPRINGS SUBDIVISION PHASE 1, RECORDED AND ON FILE AT WASHINGTON COUNTY RECORDERS OFFICE, STATE OF UTAH, FROM THE NORTHEAST CORNER OF SAID SECTION; AND RUNNING THENCE ALONG SAID SUBDIVISION THE FOLLOWING FOUR (4) COURSES, 1) THENCE N 75°03'49" E 187.66 FEET; 2) THENCE S 15°43'55" E 57.84 FEET; 3) THENCE S 45°34'57" W 45.79 FEET; 4) S 28°11'28" E 85.00 FEET TO A POINT ON A 350.00 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT, WITH A RADIUS WHICH BEARS S 28°11'28" E WHICH POINT IS ALSO ON THE BOUNDARY OF MILLCREEK SPRINGS TOWNHOMES-AMENDED, RECORDED AND ON FILE AT WASHINGTON COUNTY RECORDERS OFFICE, STATE OF UTAH; THENCE ALONG SAID BOUNDARY THE FOLLOWING THIRTEEN (13) COURSES, 1) ALONG THE ARC OF SAID CURVE 34.25 FEET THROUGH A CENTRAL ANGLE OF 5°36'23"; 2) THENCE S 56°12'09" W 177.88 FEET TO A POINT ON A 316.00 FOOT RADIUS CURVE TO THE LEFT; 3) THENCE 49.35 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 8°56'51"; 4) THENCE S 42°44'42" E 32.00 FEET TO A POINT ON A 284.00 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT, WITH A RADIUS WHICH BEARS S 42°44'42" E; 5) THENCE ALONG THE ARC OF SAID CURVE 13.61 FEET THROUGH A CENTRAL ANGLE OF 2°44'46", TO A POINT ON A 316.00 FOOT RADIUS CURVE TO THE RIGHT; 6) THENCE ALONG THE ARC OF SAID CURVE 30.27 FEET THROUGH A CENTRAL ANGLE OF 5°29'22"; 7) THENCE S 28°20'07" E 282.17 FEET; 8) THENCE S 24°12'55" E 32.80 FEET; 9) THENCE S 43°27'55" E 93.61 FEET; 10) THENCE S 74°22'40" E 68.05 FEET; 11) THENCE N 59°15'07" E 92.65 FEET; 12) THENCE S 30°48'42" E 112.58 FEET TO A POINT ON A 134.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT, WITH A RADIUS WHICH BEARS S 22°54'44" E; 13) THENCE ALONG THE ARC OF SAID CURVE 63.32 FEET THROUGH A CENTRAL ANGLE OF 27°04'22"; THENCE S 18°46'52" E 66.32 FEET; THENCE S 52°18'27" W 36.93 FEET; THENCE S 52°18'27" W 64.92 FEET; THENCE S 57°15'27" W 117.84 FEET; THENCE N 79°27'11" W 140.09 FEET; THENCE N 72°29'41" W 64.37 FEET; THENCE S 34°51'55" W 26.78 FEET; THENCE S 68°53'29" W 32.34 FEET; THENCE N 66°59'31" W 36.07 FEET; THENCE N 42°43'21" W 122.68 FEET; THENCE N 33°10'34" W 4.80 FEET; THENCE N 61°28'28" W 5.63 FEET; THENCE N 21°42'27" W 143.93 FEET; THENCE N 28°20'07" W 31.93 FEET; THENCE N 78°10'17" W 10.37 FEET; THENCE N 71°52'19" W 19.18 FEET; THENCE N 27°46'08" W 51.28 FEET; THENCE N 33°09'21" W 49.73 FEET; THENCE N 47°38'52" W 23.68 FEET; THENCE N 74°12'07" W 37.44 FEET; THENCE N 24°22'17" W 79.40 FEET; THENCE N 31°19'42" W 148.63 FEET; THENCE N 12°47'46" W 62.17 FEET; THENCE N 14°13'49" E 57.52 FEET; THENCE N 2°58'51" W 81.56 FEET; THENCE N 9°14'27" E 124.74 FEET; THENCE N 26°39'39" E 109.50 FEET; THENCE N 69°02'14" E 20.85 FEET; THENCE S 74°33'27" E 11.03 FEET; THENCE S 50°57'20" E 34.82

FEET; THENCE S 76°36'24" E 19.26 FEET; THENCE N 62°12'57" E 90.35 FEET; THENCE S 72°29'31" E 114.81 FEET TO A POINT ON THE WESTERLY BOUNDARY OF MILLCREEK SPRINGS SUBDIVISION PHASE 1; THENCE S 27°29'31" E 114.81 FEET TO THE POINT OF BEGINNING.
CONTAINS 9.64 ACRES