

Cedar Pass Ranch Homeowners' Association

**Declaration of Covenants,
Conditions and Restrictions**

Articles of Incorporation

By-Laws

incorporating amendments 1 through 11

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Declaration of Covenants, Conditions and Restrictions

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

CEDAR PASS RANCH

THIS DECLARATION OF Covenants, Conditions and Restrictions is made this 11th day of August, 1995 by Cedar Pass, L.C., a Utah Limited Liability Company (hereinafter "Grantor").

WHEREAS Cedar Pass Ranch is an area of unique natural beauty, featuring distinctive terrain; and

WHEREAS by subjecting Cedar Pass Ranch to this Declaration, it is the desire, intent and purpose of Grantor to create a community in which such beauty shall be substantially preserved, which will enhance the desirability of living on those portions of Cedar Pass Ranch, subject to this Declaration, and which will increase and preserve the attractiveness, quality and value of the lands and improvements therein; and

WHEREAS this Declaration shall apply to the lands described on Exhibit A hereto and to such additional lands as may be hereafter subjected to this Declaration in the manner set forth below in Article II.

NOW, THEREFORE, Grantor hereby declares that Cedar Pass Ranch is and shall henceforth be owned, held, conveyed, encumbered, leased, improved, used, occupied and enjoyed subject to the following uniform covenants, conditions, restrictions and equitable servitudes. That said covenants, conditions, restrictions and equitable servitudes are in furtherance of, and the same shall constitute, a general plan for the ownership, improvement, sale, use and occupancy of Cedar Pass Ranch and that they are also in furtherance of and designed to accomplish the desires, intentions, and purposes set forth above in the recitals. This Declaration shall run with the real property described on Exhibit A and shall inure to the benefit of and be binding upon every part thereof and every interest therein. Further the Declaration shall inure to the benefit of, be binding upon, and be enforceable by Grantor and its successors in interest and each Owner and his successors in interest.

This Declaration shall be recorded and may be enforced as provided for herein.

ARTICLE I

DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used in the Declaration shall have the meanings hereinafter specified.

SECTION 1.01. **Architectural Committee** shall mean the committee created pursuant to Article IX hereof.

SECTION 1.02. **Architectural Committee Rules** shall mean the rules adopted by the Architectural Committee pursuant to Article IX hereof.

SECTION 1.03. **Assessments** shall mean the sums levied for the purposes set forth in Articles XI and XII hereof.

SECTION 1.04. **Association** shall mean Cedar Pass Ranch Homeowners' Association, Inc.

SECTION 1.05. **Beneficiary** shall mean a mortgagee under a mortgage, a beneficiary under a deed of trust, or a seller under a title retaining contract, as the case may be.

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SECTION 1.06. **Board** shall mean the Board of Trustees of the Association, as appropriate.

SECTION 1.07. **Deed of Trust** shall mean a mortgage, a deed of trust, or a title retaining contract, as the case may be, granted on a Lot to secure the payment of a debt.

SECTION 1.08. **Grantor** shall mean Cedar Pass L.C., a Utah Limited liability Company and its successors by merger, assignment, or dissolution.

SECTION 1.09. **Improvement** shall mean every structure and all appurtenances thereto of every type and kind, including but not limited to buildings, outbuildings, patios, tennis courts, swimming pools, garages, doghouses, mailboxes, aerials, antennas, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, planting, planted trees and shrubs, poles, signs, exterior air conditioning, water softener fixtures or equipment, and pumps, wells, tanks, reservoirs, pipes, lines, meters, towers, and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

SECTION 1.10. **Cedar Pass** shall mean Cedar Pass L.C., a Utah Limited Liability Company.

SECTION 1.11. **Lot** shall mean any unit of land which is designated on any recorded Subdivision plat of Cedar Pass Ranch whether or not improved.

SECTION 1.12. **Manager** shall mean any person, firm or corporation employed by the Association pursuant to Article X hereof and delegated duties, powers or functions by the Association.

SECTION 1.13. **Mortgage** shall mean any mortgage, deed of trust or title retaining contract granted on a Lot to secure the payment of a debt.

SECTION 1.14. **Exterior Materials (Excluding Roofs)**. Exterior materials shall mean stone, rock, stucco, finished lumber, logs, brick, or other similar materials, but shall not mean cinder or concrete block. Decorative, colored concrete block (chip block or designer block) may be utilized for detached garages or other outbuildings providing the design and appearance are coordinated with the existing or planned residence, and approved in advance in writing by the Architectural Committee. In Plats A, B, C, D, E (except lot 58), F (except lots 61, 62, 63, 64, 65, 80, and 81) G, H, I, J, K, L, M, N, and O, metal siding may be used on barns and other outbuildings, but not detached garages, providing that it is steel and of the type being used on the roofs of the log homes, or equivalent or better, and has a factory-applied paint coat. The final paint used on the metal siding shall be of a flat or low sheen nature. Also in the said Plats, with the exception of lots as listed, vinyl siding may be used on any dwelling, detached garage, or outbuilding. Exterior residence materials shall be of a noncombustible material. Minimum nine inch (9") diameter logs are classified as noncombustible. Logs of a lesser diameter with 5/8" sheet rock backing are also classified as noncombustible. Wood siding without a fire rating may be used on a maximum of twenty-five percent (25%) of the exterior wall surfaces. Outbuildings need not be constructed of noncombustible materials. The determination as to if any specific material constitutes an acceptable Exterior Material as its use is proposed in a given structure in Cedar Pass Ranch shall be made by the Architectural Committee.

SECTION 1.15. **Notice and Hearing** shall mean ten (10) days written notice given and a public hearing at which the person to whom the notice is directed shall have the opportunity to be heard in person or by counsel at his expense.

SECTION 1.16. **Owner** shall mean (1) the person or persons, including Grantor, holding an aggregate fee simple interest in a Lot or, as the case may be, (2) the purchaser of an aggregate fee simple interest in a Lot under an executory contract sale.

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SECTION 1.17. **Person** shall mean a natural individual or any other entity with the legal right to hold title to real property.

SECTION 1.18. **Plans and Specifications** shall mean any and all documents designed to guide or control the construction or alterations or improvements or other proposal in question, including but not limited to documents indicating the size, shape, configuration and/or materials, to be incorporated; all site plans, excavation and grading plans, elevation drawings, floor plans, specifications on all building products and construction techniques, samples of exterior colors, plans for utility services, and all other documentation or information relevant to the improvement or proposal in question.

SECTION 1.19. **Cedar Pass Ranch** shall mean all lands described on Exhibit A attached hereto and all lands which may be hereafter subjected to this Declaration pursuant to Article II from and after such subsection.

SECTION 1.20. **Record, Recorded, and Recordation** shall mean, with respect to any document, the recordation of such document in the office of the Recorder of Utah County.

SECTION 1.21. **Subdivision** shall mean a parcel of land which has been shown on a final and recorded subdivision plat consisting of two or more lots.

SECTION 1.22. **Declaration** shall mean this instrument as it may be amended from time to time.

SECTION 1.23. **Period of Grantor's Control** shall mean a period from the date of recording of this Declaration until the later to occur of the events set forth in Section 10.02 (a) and (b).

SECTION 1.24. **Variance to Covenants, Conditions, and Restrictions (CC&Rs)**. In recognition of the fact that rules and regulations may need to be slightly adapted, changed, or modified (without amending the basic principle) from time to time due to many factors including advancements in science and technology, changes in local government ordinances, and other unforeseen circumstances, an exception, exclusion, exemption, variance, or waiver for limited non-conformance (commonly called "a variance") to specific Covenants, Conditions, or Restrictions may be granted. Written permission must be obtained from the Board of Trustees, with the approval of lot Owners (members) as described in Section 14.06, to have a variance from and non-conformance to normal regulations without penalty.

Such a variance may: exhibit diversity or variety; be different; show discrepancy; not agree; have a different amount, condition, character, degree, or phase of something; or possess a variable feature, factor, or the like. In spite of the variance or non-conformance, when it is approved by the required process and carried out according to the agreed terms, it shall be deemed fully acceptable in every respect.

ARTICLE II

SUBJECTION OF LAND TO THIS DECLARATION

SECTION 2.01. Grantor may at any time and from time to time subject additional Real Property to the provisions of this Declaration in accordance with the procedures set out in this Article II. Upon the recording of a Notice of Addition of Real Property containing the provisions set forth below in this Article, the covenants, conditions, restrictions and equitable servitudes contained in this Declaration shall apply to such additional Real Property in the same manner as to the real property originally subject to this Declaration; and thereafter, the rights, privileges, duties and liabilities of all persons subject to this Declaration shall be the same with respect to all additional Real Property as with respect to the property originally covered by this Declaration.

The Notice of Addition of Real Property referred to hereinabove shall contain the following provisions:

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- A. A reference to this Declaration, which reference shall state the date of recordation hereof and the book and page numbers wherein this Declaration is recorded.
- B. A statement that the provisions of this Declaration shall apply to the additional Real Property as set forth herein.
- C. A complete adequate legal description of the added land; and
- D. Grantor's written consent.

ARTICLE III

BASIC BUILDING RESTRICTIONS

SECTION 3.01. **Use of Property.** Each Lot shall be used for a single house to be used as a residence. Condominiums, duplexes, apartment buildings, or the likes are not allowed. An Owner of more than one adjoining Lot need build only one residence on a Lot to make use of adjoining Lots which he/she owns.

SECTION 3.02. **Architectural Committee Approval.** The Plans and Specifications, including the location of all improvements, must be approved in writing by the Architectural Committee prior to commencement of any construction in accordance with and subject to the provisions of Article IX hereof.

SECTION 3.03. **Property Line Setbacks.** Any structures to be constructed on a Lot shall comply with the following property line setbacks.

Front Yard	-	50 feet
Side Yard	-	50 feet
Rear Yard	-	50 feet

Fencing and landscaping features may extend to the property lines subject to Architectural Committee approval, except on the rearmost ten (10) feet of Lots or side Lots which are designated as Equestrian Trails on the plat of Cedar Pass Ranch Subdivision.

[Note: A variance incorporated into Amendment 8 provides an exception to the property line setback requirement for Lot 3 between Lots 3 and 4. See list of variances at the end of the CC&R section for details.]

SECTION 3.04. **Floor Space.** The minimum size of each single story, bi-level or tri-level dwelling unit shall be 1500 square feet of interior floor space. The minimum size of each two-story dwelling unit shall be 2200 square feet of interior floor space, of which at least 1200 square feet shall be on the first floor. Interior floor space does not include basements, garages, porches, patios, decks, balconies, overhangs, or unfinished living areas.

[the following applies to Plat E Lot 58; Plat F Lots 61, 62, 63, 64, 65, 80, 81]

SECTION 3.04. **Floor Space.** The minimum size of each single story, bi-level or tri-level dwelling unit shall be 2500 square feet of interior floor space. The minimum size of each two-story dwelling unit shall be 3000 square feet of interior floor space of which at least 1500 square feet shall be on the first floor. Interior floor space does not include basements, garages, porches, patios, decks, balconies, overhangs, or unfinished living areas.

SECTION 3.05. **Exterior Surfaces.** All exterior surfaces of any building shall be of materials and of colors approved by the Architectural Committee and as specified in Article 1.14.

SECTION 3.06. **Roofs.** The roofs of all buildings larger than 200 square feet shall be of architectural grade asphalt shingles, metal, tile, or wood shingles, and pitch or

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slope (minimum 6:12), material, color, and texture approved by the Architectural Committee. The residence roofing materials shall be fire retardant.

[Note: A variance approved by vote of the association on September 8, 2004 allows certain outbuildings to have roof pitches of less than 6:12. See list of variances at the end of the CC&R section for details.]

SECTION 3.07. **Height.** No building shall exceed thirty feet in height measured from the highest natural ground level adjacent to such building to the highest point of the ridge line of such building.

SECTION 3.08. **Garages.** An enclosed garage of at least 400 square feet capable of parking a minimum of two (2) automobiles and a maximum of four (4) automobiles shall be constructed on each Lot. Said garage may be detached from or attached to the residential structure. The doors of the garage shall not be constructed on the front elevation of a home, nor, where feasible due to the topography of the Lot, shall they face the public streets adjacent to the Lot.

SECTION 3.09. **New Construction.** All dwelling units shall be of new construction and no existing building shall be moved onto any Lot. No other building (including but not limited to playhouses and storage sheds) may be moved onto a Lot without the prior written approval of the Architectural Committee. Prefabricated, premanufactured, etc. residences shall not be constructed, assembled or moved onto any Lot.

SECTION 3.10. **Outbuildings.** Outbuildings are defined as any structure which is permanent, or requires a city building permit, or has a solid roof, or is used for storage or vehicle parking. No more than two (2) outbuildings may be larger than 200 square feet and must be architecturally compatible with the residence. A garage not attached to the residence is an outbuilding. Buildings smaller than 200 square feet such as gazebos, detached covered patios, playhouses, well houses, loafing sheds, etc. are limited to a number of three (3). All outbuildings must be approved by the Architectural Committee.

SECTION 3.11. **Storage of Building Materials.** No building materials shall be stored on any Lot except temporarily during construction of an improvement or its alteration, renovation or remodeling, and then only when a building permit is in force.

SECTION 3.12. **Occupancy During Construction.** No improvement structure shall be occupied in the course of original construction until a required certificate of occupancy have been issued by the appropriate governmental authority. However, a temporary trailer, used for construction as well as temporary living purposes, may be placed on the lot during construction of the residence. The trailer must be placed on the lot so as to be screened from view by the residence under construction. Occupancy in a temporary trailer during construction may be done only with approval from the Town of Eagle Mountain prior to moving the trailer onto the lot. Before occupancy of the trailer, Owner(s) must obtain a building permit from the Town, and said trailer must comply with all subdivision Covenants, Conditions, and Restrictions. All work of construction shall be prosecuted diligently and continuously from the time of commencement (that is, date that site excavation began) until completed within nine (9) months. In no case shall the trailer remain on the lot for more than nine (9) months from the date of commencement of construction.

SECTION 3.13. **Temporary Structures.** It shall be unlawful for any property Owner or person to reside in or occupy or allow to be occupied within Cedar Pass Ranch, any tent, trailer, recreational vehicle, or other enclosure not designed and constructed for permanent human occupancy and for which a final certificate of occupancy has not been issued by the city/county. Recreational vehicles or vacation trailers may be occupied with the permission of the property Owner for a period not to exceed 21 calendar days in connection with bona fide guest visitation.

SECTION 3.14. **Construction Activities.** This Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction of improvements by any Owner, provided that when completed such improvements shall in all ways conform to this

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Declaration. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs, or similar activities, provided that such construction is pursued to completion with reasonable diligence, is in compliance with applicable federal, state and local laws and ordinances and any rules and regulations adopted pursuant thereto, and conforms to usual construction practices in the area. In the event of any dispute, a temporary waiver of the applicable provision, including but not limited to any provision prohibiting temporary structures, may be granted by the Architectural Committee, provided that such waiver shall be only for the reasonable period of such initial construction. Such waiver may, but need not, be recorded or in recordable form.

SECTION 3.15. **Driveways.** Driveways for dwellings shall be large enough to accommodate at least two (2) parked automobiles. Hard surface driveways shall be properly maintained and patched. Soft surface driveways (gravel and road base materials) shall be maintained, graded and kept weed-free.

SECTION 3.16. **Mailbox.** Each Lot when improved shall have a Mailbox and post in compliance with the details and designated colors shown in Exhibit D. Any variation of this shall require the approval of the Board of Trustees, except that each Owner(s) may choose their own style of letters and numbers to be placed on the Mailbox, post or both to suit themselves. Mailbox, post, letters, and numerals shall be kept in good repair.

ARTICLE IV

ANIMALS

Animals kept on any Lot shall be properly fenced, sheltered and cared for. All dogs shall be kept on a handheld leash except when on the Owner's own Lot. Each Owner shall maintain and clean barns, sheds, stalls, corals, etc., to assure a clean and orderly appearance with no objectionable odors, pests, insects, etc. No animal or pet of any kind, other than common domesticated animals, shall be permitted in Cedar Pass Ranch, which, in the opinion of the Board of Trustees, might be dangerous or which makes an unreasonable amount of noise or odor or is a nuisance. Any animals which are not common domesticated animals must be approved in writing by the Board of Trustees. Each owner of pets and animals shall be financially responsible and liable for any damage caused by said Owner's pets and animals and shall be responsible for the pickup and disposal of any excrement deposited by their pets and animals.

ARTICLE V

COMMON AREA AMENITIES

SECTION 5.01. **Riding Ring.** Located in Filing Two of the Cedar Pass Ranch Subdivision is an approximate one acre site which will be designated as a riding ring. This is made available to all Lot owners, tenants and their accompanied guests or invitees. The area shall be maintained by the Homeowners' Association. Future improvements shall be determined by a vote and at the expense of the Association members.

SECTION 5.02. **Equestrian Trails.** The rearmost ten (10) feet of each Lot and some designated sides of Lots are dedicated as non-exclusive easements as an Equestrian Trail (which may include underground utility locations). Where two Lots adjoin, the Equestrian Trail is twenty (20) feet wide. These trails are for the exclusive use of members, tenants, and their accompanied guests and invitees. The trails shall be maintained by the Homeowners' Association. Lot Owners shall not place fencing, structures, or any obstructions in these areas. Electric fences are permitted but must be sufficiently marked so as to ensure that horse riders, and other passers-by will recognize the need for caution.

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SECTION 5.03. **Motorized Vehicles.** No motorized vehicles (autos, trucks, motorcycles, ATVs, etc.) shall be permitted on trails or riding ring area except for Board-approved maintenance. Bicycles may be ridden on equestrian trails, but must yield to horses.

SECTION 5.04. **Supervision and Responsibilities.** There is no supervision of the common areas or their prescribed uses. These shall be used at the sole risk and responsibility of the members and their guests, invitees and tenants. Any damage to any homeowner or association property or personal injury shall be the responsibility of the individual causing such. In the case of damage caused by any member, tenants, guests, or invitees of the member, the member is responsible.

ARTICLE VI

UTILITIES

SECTION 6.01. **To be Underground.** Each Lot shall be and is hereby made subject to all easements that now or in the future may be used for gas, electric, telephone, cable television, water, sewer and other lines present or in the future as are necessary to provide utility services to said Lot, adjoining Lots, and the improvements thereon. Each Owner hereby agrees to execute such further grant or other documentation as may be required by any utility or other company or public governmental or quasi-governmental entity for such purposes. Subsequent to date of execution of the Declaration, any necessary electrical, telephone, gas, water, sewer, cable television, and other utility conduits, lines and pipes on any Lot shall be placed underground. No transformer, or electric, gas, water or other meter or device of any type, or any other apparatus shall be located on any pole. All such installations shall be subject to the prior written approval of the Architectural Committee.

SECTION 6.02. **Rules and Regulations.** Each Owner agrees to abide by all applicable rules and regulations of all utility and other companies and public, governmental and quasi-governmental entities which supply any of the services mentioned in Section 6.01 above.

SECTION 6.03. **Street Lighting.** If street lights are installed, all Lots shall be subject to and bound by any utility company tariffs which are now or may in the future be filed with and approved by the Public Utilities Commission of the State of Utah or assessments made by any other governmental entity relating to street lighting, together with rates, rules and regulations therein provided, and subject to all future amendments and changes thereto so approved. The Owner of each Lot shall pay as billed a portion of the cost of Street lighting according to such utility company or any other governmental entity rates, rules and regulations, including future amendments and changes, on file with and approved by the Public Utilities Commission of the State of Utah or any other governmental entity. Notwithstanding the foregoing Grantor shall not be obligated to install street lights.

ARTICLE VII

USE AND RESTRICTIONS

SECTION 7.01. **Antennas.** Small satellite dishes or antennas shorter than twelve (12) feet above the roof line may be placed and maintained wherever the homeowner desires. Satellite dishes larger than one (1) meter in diameter must be screened from view from other Lots and adjacent streets.

SECTION 7.02. **Transmitters.** [removed]

SECTION 7.03. **Repair of Buildings.** No improvement upon any Lot shall be permitted to fall into disrepair, and each such improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the Owner before the surfacing becomes weather beaten or worn off. Materials which are customarily left

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unfinished, such as cedar shake shingle roofs and cedar stockade fences, are permitted so long as in the opinion of the Architectural Committee they have not become unsightly.

SECTION 7.04. **Reconstruction of Buildings.** Any improvement which has been destroyed in whole or in part by fire, hail, windstorm or any other cause or act of God, shall be rebuilt or restored with reasonable promptness, and in any event within nine (9) months. Further, all debris shall be removed and Lot restored to a slightly condition within thirty (30) days.

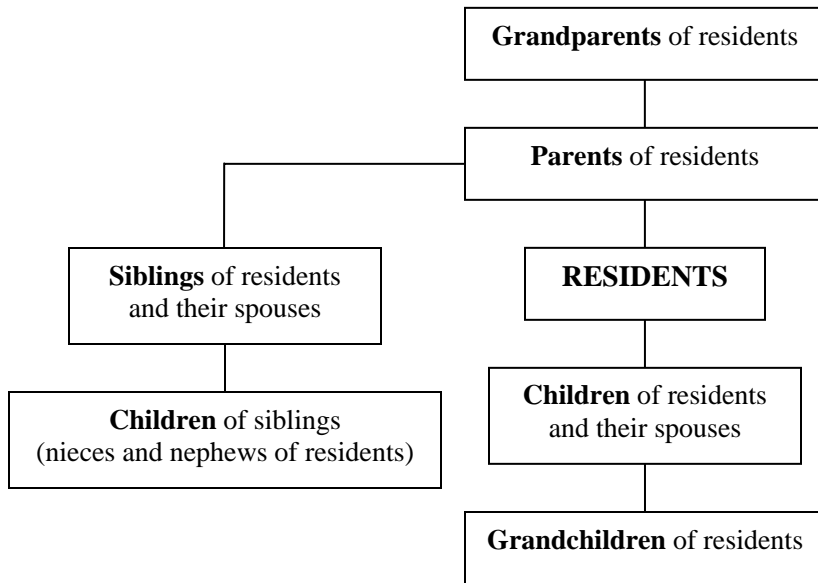
SECTION 7.05. **Nuisances.** No rubbish, debris, or hazardous waste of any kind shall be placed or permitted to accumulate upon any Lot and no odors shall be permitted to arise therefrom so as to render any such property or any portion thereof, in the opinion of the Board of Trustees, unsanitary, unsightly, offensive or detrimental to any other property or to its occupants. No noise or other nuisance shall be permitted to exist or operate upon any Lot so as to be, in the opinion of the Board of Trustees, offensive or detrimental to any other property or its occupants. Without limiting the generality of any of the foregoing provisions, exterior speakers, horns, whistles, bells, or other sound devices may be located, used, or placed in accordance with city and county ordinances.

SECTION 7.06. **Unsightly Articles.** No unsightly article shall be permitted to remain on any Lot or on streets and drives within Cedar Pass Ranch so as to be visible from adjoining property or adjacent streets. Without limiting the generality of the foregoing, mobile homes, trucks (other than pickups used solely for the private and non-business use of the residents of a dwelling), tractors, backhoes, caterpillars, wagons, buses, sleighs, motorcycles, motor scooters, snowmobiles, snow removal equipment, and all commercial and business vehicles shall be kept at all times, except when in actual use, screened from view by a screen at least as tall as the article or a maximum of eight (8) feet. A maximum of two (2) recreational vehicles (such as a travel trailer, camper trailer, motor home, or boat), utility trailer (such as a flatbed trailer), enclosed multi-purpose trailer, or horse trailer shall be allowed unscreened, so long as they are not used as a storage facility, and have current registration and license, if required by law making it roadworthy. All vehicles and trailers weighing over 700 pounds or having a tandem (2) axle must be registered and licensed by state law. No repair or maintenance work shall be done on any of the foregoing, or on any automobile, other than minor emergency repairs, except in an enclosed garage or other enclosed structure.

SECTION 7.07. **Signs.** All signs must be professionally painted, lettered, and constructed. Signs may have a maximum height of four (4) feet, a maximum width of four (4) feet, and a maximum height of posts (and hence total height of sign) of six (6) feet. Signs must be maintained and removed within 48 hours of completion of sign's purpose. Signs may only be displayed on private property and not on Cedar Pass Ranch entrances, common areas, or road right-of-ways. No electrical signs are permitted. All signs, except those which advertise the sale of the specific property upon which the sign is posted, require Architectural Committee approval.

SECTION 7.08. **Single-Family Use Only.** The Lot, and the residence on any Lot, shall be used for a single-family residence. A single family is defined as a resident and their spouse (residents), and may include the residents' grandparents, parents, children, spouses of children, grandchildren, siblings, spouses of siblings, and siblings' children (nephews and nieces of residents). It is defined by the chart below.

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SECTION 7.09. **Hazardous Activities.** No activities shall be conducted on any Lot and no improvements shall be constructed on any Lot 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 any Lot, and no open fires shall be lighted or permitted on any Lot except as permitted by county fire and health departments or except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and properly designed interior fireplace.

SECTION 7.10. **Garage Sales.** No garage, patio, porch or lawn sale shall be held on any Lot, except that the Owner of any Lot may conduct such a sale if the items sold are only his own furniture and belongings, not acquired for purposes of resale; if such sale is held at such time and in such manner as not to disturb any other resident of the area and if such sale is held in full compliance with all applicable governmental ordinances, statutes, resolutions, rules and regulations.

SECTION 7.11. **Erosion and Dust Control.** In addition to all other measures taken to prevent or eliminate nuisances and conditions that are unsightly and detrimental to any other property or its occupants, in the cases of animals, vehicles, etc., adequate measures (including proper range and grazing techniques, seeding and maintaining native vegetation such as dry grasses, wild flowers, etc.) shall be taken to maintain appropriate ground cover to prevent and control erosion and dust.

ARTICLE VIII

LANDSCAPING AND DRAINAGE

SECTION 8.01. **Approval.** Prior to commencement of any construction of any fence, screening wall, retaining wall, arbor, gazebo, patio cover, or roof, approval of the Architectural Committee shall be obtained pursuant to Article IX hereof.

SECTION 8.02. **Completion of Landscaping.** Front yard and side (lateral) yards must at a minimum have Landscaping as defined in Section 8.03 installed 180 days (6 months) from the date that residence is occupied. The planting of trees and the landscaping of the rear yard must be completed within 18 months from the date the residence is occupied.

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SECTION 8.03. **Landscaping.** Each residence is to be surrounded on all sides of the home by a minimum of thirty (30) feet of owner-placed substance, or planted and maintained landscape, within the time outlined in Section 8.02. Ground must be covered by owner-planted vegetation such as grass, sod, trees, plants or bushes OR owner-placed substance such as bark, cement, asphalt, brick, tile, rock, gravel, etc.

SECTION 8.04. **Trees.** When a Lot is improved with a residence, a minimum of ten (10) trees shall be planted and maintained on the Lot within the time outlined in section 8.02. Each tree must be at least six (6) feet in height from ground level to the top of the tree.

SECTION 8.05. **Lot Maintenance.** The remainder of the Lot not included in Section 8.03 shall be maintained in irrigated gardens, grasses, pastures, crops, or at a minimum in a natural and native setting. The Lot is to be kept free from dead plant or weed materials, debris, and trash.

SECTION 8.06. **Fuel Breaks for Fire Protection ("Fire Breaks").** Lots that have side and rear lot lines along the outside boundary of the subdivision, and adjoining undeveloped land (land without improvements) shall have a minimum Fuel Break of fifty (50) feet. Side and rear lot lines bordering a road or highway do not need to meet this requirement. Lots are automatically released from this requirement whenever the adjoining property becomes developed or a road or highway is created. The Equestrian Trail is included as part of the Fuel Break area. An appropriate Fuel Break shall be defined as thinning native vegetation, removal of dead plant materials, and restricting vegetation height to not greater than six (6) inches.

SECTION 8.07. **Fencing.** The front property line fence shall be a double split rail and post cedar material in accordance with Exhibit B. This fence shall be owned, repaired, and maintained by the Lot Owner and shall not be removed, except in part to provide driveway and walkway gating or openings, unless written permission is obtained by the Board of Trustees. All other fencing shall be approved in accordance with Article 9.01. No barbed wire fencing is permitted.

[Note: A variance incorporated into Amendment 8 provides an exception to the "fence distance from road" requirement in certain cases with Architectural Committee approval. See list of variances at the end of the CC&R section for details.]

SECTION 8.08. **Road Right-of-Ways.** The Cedar Pass Homeowners' Association will mow the area from the edge of public road pavement to the fence line, as needed, and supplement city/county maintenance to help weed control, grass and vegetation height, uniform appearance, etc. Lot Owners shall maintain areas in front of their Lots in like manner around fences, signs, fire hydrants, mailboxes, etc.

SECTION 8.09. **Maintenance of Unimproved Lot.** Lot Owner is responsible from the date of receipt of deed to Lot, to maintain the unimproved Lot free and clear of all dead plant or weed materials, trash or debris.

SECTION 8.10. **Drainage.** No material change may be made in the ground level, slope, pitch or drainage patterns of any Lot as fixed by the original finish grading except after first obtaining the prior written approval of the Architectural Committee. Grading shall be maintained at all times so as to conduct irrigation and surface waters away from buildings and so as to protect foundations and footings from excess moisture. Any drainage flows directed to adjacent Lots shall not exceed historic flows. Owners shall not impede or retain water flow in the Tickville Gulch or other natural drainage gulches.

SECTION 8.11. **Entries and Street Name Monuments.** The street name monuments placed at street intersections in Cedar Pass Ranch and entry structures are placed on footprint easements on the corner Lots. Such monuments and structures shall be maintained by the Association. The Association or its designated agents have right of access to perform maintenance. Lot Owners may not obstruct the view, attach any improvement, including fencing, to, against, or in front of such monuments. Lot Owners will maintain their Lot

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adjacent to the monuments. The Association will maintain all entries including landscaping, monuments, walls, etc.

ARTICLE IX

ARCHITECTURAL COMMITTEE

SECTION 9.01. **Approval Required.** No improvement, building, fence, wall or other structure shall be commenced, erected, repaired, altered, added to or maintained until the Plans and Specifications showing the nature, kind, shape, height, materials, floor plans, exterior color scheme and location of such structure, and the grading plan and finished grade elevations of the Lot to be built upon shall have been submitted to and approved by the Architectural Committee hereinafter described, and a copy, provided by Lot Owner, shall remain permanently with said Committee pursuant to the provisions of this Article. All subsequent additions to or changes or alterations in any building, fence, wall, or other improvement, including exterior color scheme shall be subject to the prior approval of the Architectural Committee.

SECTION 9.02. **Members of Committee.** The Cedar Pass Ranch Architectural Committee shall consist of not less than three members, nor more than five members. The following persons are hereby designated as the initial members of the Committee:

Phillip Nolen
Grant E. Marsh
Scott Kirkland
Debbie Hooge

Each member of the Committee shall hold office until such time as he has resigned or has been removed or his successor has been appointed as provided herein. Members of the Committee may be removed at any time with or without cause by the Board.

SECTION 9.03. **Appointment of Members.** The Board shall have the right to appoint and remove all members of the Committee, except that during the period of Grantor's control, the Grantor may appoint and remove up to three members of the Committee.

SECTION 9.04. **Review of Proposed Construction.** Whenever in this Declaration the approval of the Architectural Committee is required, it shall have the right to consider all of the Plans and Specifications for the improvement or proposal in question and all other facts which in its sole discretion are relevant. Prior to Commencement of any construction of any improvement on any Lot, the Plans and Specifications therefor shall be submitted to the Architectural Committee at 65 North 920 East, Orem, Utah 84057, and construction thereof may not commence unless and until the Committee has approved such Plans and Specifications in writing. The Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration, or as from time to time shall be assigned to it by the Association, including the inspection of construction in progress to assure its conformance with Plans and Specifications approved by the Committee. The Committee shall approve Plans and Specifications submitted for its approval only if it deems that the construction, alterations, or additions contemplated thereby in the locations indicated will not be detrimental to the surrounding area or Lots as a whole, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures. The Committee may condition its approval of Plans and Specifications or on other information prior to approving or disapproving the material submitted. The Committee may also issue rules or guidelines regarding anything relevant to its function, including but not limited to minimum standards and procedures for the submission of Plans and Specifications for approval. The committee may require a fee, not to exceed fifty dollars (\$50.00), to accompany each application. The Committee may require such detail in Plans and Specifications submitted for its review and such other information as it deems proper. Until receipt by the Committee of all required Plans and Specifications and other information, the Committee may postpone review of anything submitted for approval.

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SECTION 9.05. **Committee Meetings.** The Committee shall meet from time to time as necessary to perform its duties hereunder. The Committee may from time to time by resolution unanimously adopted in writing designate one of its members to take any action or perform any duties for and on behalf of the Committee. In the absence of such designation, the vote of a majority of all of the members of the Committee, or the written consent of a majority of all of the members of the Committee taken without a meeting, shall constitute an act of the Committee.

SECTION 9.06. **Waiver of Consent.** The approval or consent of the Committee to any Plans or Specifications for any work done or proposed or in connection with any other matter requiring the approval or consent of the Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any Plans or Specifications or other matter whatever subsequently or additionally submitted for approval or consent by the same or a different person.

SECTION 9.07. **Compensation.** The members of the Committee shall be entitled to reasonable compensation from the Association for services rendered, together with reimbursement for expenses incurred by them in the performance of their duties hereunder.

SECTION 9.08.

A. **Completed Work.** Inspection of completed work and correction of defects therein shall proceed as follows:

- (i) Upon the completion of any improvement for which approved Plans or Specifications are required under this Declaration, the Owner shall give written notice of completion to the Committee.
- (ii) Within such reasonable time as the Committee may set but not to exceed fifteen (15) days thereafter, the Committee or its duly authorized representative may inspect such improvement. If the Committee finds that such work was not done in strict compliance with all approved Plans and Specifications submitted or required to be submitted for its prior approval, it shall notify the Owner in writing of such noncompliance within such period, specifying in reasonable detail the particulars of noncompliance, and shall require the Owner to remedy the same.
- (iii) If upon the expiration of thirty (30) days from the date of such notification the Owner shall have failed to remedy such non compliance, the Committee shall notify the Board in writing of such failure. Upon Notice and Hearing, the Board shall determine whether there is a non compliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date of announcement of the Board ruling. If the Owner does not comply with the Board's ruling within such period, the Board at its option, may either remove the noncomplying improvement or remedy the noncompliance, and the Owner shall reimburse the Association upon demand for all expenses incurred in connection therewith. If such expenses are not promptly repaid by the Owner to the Association, the Board shall levy an assessment against such Owner and the Improvement in question and the Lot upon which the same is situated for reimbursement, and the same shall constitute a lien upon such land and improvement and be enforced as provided in this Declaration.
- (iv) If for any reason after receipt of said written notice of completion from the Owner the Committee fails to notify the Owner of any noncompliance with the period provided above in subparagraph (ii) of Section 9.08, the improvement shall be deemed to be in accordance with said approved Plans and Specifications.

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B. **Work in Progress.** The Committee may inspect all work in progress and give notice of noncompliance as provided above in subparagraph (ii) of Section 9.08. If the owner denies that such noncompliance exists, the procedure set out in subparagraph (iii) of Section 9.08 shall be followed, except that no further work shall be done, pending resolution of the dispute, which would hamper correction of the noncompliance if the Board shall find that such noncompliance exists.

SECTION 9.09. **Nonliability of Committee Members.** Neither the Committee nor any member thereof nor the Board nor any member thereof shall be liable to the Association or to any owner or to any other person for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's or the Board's respective duties under this Declaration unless due to the willful misconduct or bad faith of the Committee or its members or the Board or its members, as the case may be. The Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any Plans and Specifications be deemed approved thereof from the standpoint of structural safety, engineering soundness, or conformance with building or other codes.

ARTICLE X

CEDAR PASS RANCH HOMEOWNERS' ASSOCIATION

SECTION 10.01. **Membership.** Every Lot Owner shall be a member of the Cedar Pass Ranch Homeowners' Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot within Cedar Pass Ranch. Ownership of such Lots shall be sole qualification for membership.

SECTION 10.02. **Voting Rights.** The Association shall have two classes of voting membership:

Class A. Class A members shall be all of the Owners with the exception of Cedar Pass L.C. Class A members having a lot without a residence dwelling or purchased building permit shall be entitled to (1) vote per lot for that lot. Class A members having a lot with a residence dwelling or purchased building permit shall be entitled to two (2) votes per lot for that lot. If Class A members own more than one lot, each lot must qualify with respect to the residence dwelling requirement to have either one (1) vote without a residence dwelling or two (2) votes with a residence dwelling. When more than one person holds interest in any lot, all such persons shall be members, provided, however, that the vote for such lot shall be exercised as the several Owners among themselves determine, but in no event shall more than the allowed number of votes, whether one (1) or two (2) votes per lot as described above, be cast with respect to any lot and no Class A member shall have a right to vote unless such member is in good standing. The Board of Trustees shall have power to suspend voting rights of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association (see also By-Laws Article VII, Section 1. Powers, item b). If title to any lot is held jointly or in common by more than one person, the voting rights with respect to the said lot shall be held in the same manner. Neither fractional nor split votes shall be allowed per lot, and all joint or common Owners must sign the ballot for each of their lots (or designate valid power of attorney) in order for the lot vote(s) to be counted.

Class B. The Class B member shall be Cedar Pass L.C. The Class B member shall be entitled to three (3) votes for each Lot which it owns, provided that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs later:

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- (i) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (ii) December 31, 2002.

SECTION 10.03. **Organization and Purpose.** The Association is a nonprofit Utah corporation created for the purposes, charged with the duties, and invested with the powers prescribed by law or set forth in its Articles and By-Laws or in this Declaration. Neither the Articles nor By-Laws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration. In the event of a conflict between the provisions of the Articles of Incorporation and this Declaration, the Articles shall control, and in the case of any conflict between this Declaration and the By-Laws, the terms and provisions of this Declaration shall control. The Association shall be charged with the administration of Cedar Pass Ranch and the terms and provisions of this Declaration. Further, the Association shall be responsible for the maintenance and operation of any open space or easements and any improvements on such open space or easements within Cedar Pass Ranch owned by the Association.

SECTION 10.04. **Specific Powers of the Cedar Pass Ranch Association.**

- A. Right of Entry and Enforcement.** The Association may enter, after twenty-four (24) hours written notice without being liable to any Owner, onto any Lot for the purpose of enforcing by peaceful means the provisions of this Declaration. The Association may also, in its own name and behalf or in the name and behalf of any Owner who consents thereto, commence and maintain actions and suits to enforce by mandatory injunction or otherwise, or to restrain and enjoin any breach or threatened breach of the provisions of this Declaration.
- B. Fines.** If any Owner, or any member of his family, or any of his guests, invitees, or tenants, shall breach any covenant, condition or restriction contained in this Declaration, and if such Owner shall not cease and remedy such breach (or cause such other person to cease or remedy such breach) after Notice and Hearing the Association may levy a reasonable fine not to exceed Fifty Dollars (\$50.00) for each breach per month while the breach remains uncured against such Owner and he shall be personally liable to pay the same and the same shall become a lien against such Owner's Lot and all improvements thereon, and payment may be enforced, as is hereinafter provided for Assessments.
- C. Delegation of Functions.** To the extent permitted by law, the Association and the Board may delegate any of their duties, powers or functions to the manager or to any other person, or committee of persons. The Owners release the Association and the members of the Board from Liability for any omission or improper exercise by the Manager or such other person or committee of any duty, power or function so delegated.
- D. Contracts.** The Association may enter into contracts with Grantor and all other persons to provide any service or perform any function, including but not limited to contracts delegating enforcement of some or all of the duties under this Declaration and the right to collect and remit (but not to levy) Assessments and fines levied by the Association.
- E. Rules and Regulations.** The Association may enact such reasonable rules and regulations, not in contradiction of this Declaration, as it deems proper covering any and all aspects of its functions hereunder.

ARTICLE XI

CEDAR PASS RANCH ASSESSMENTS

SECTION 11.01. **Creation of the Lien and Personal Obligation of Assessments.** Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so

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expressed in any such deed or other conveyance, is deemed to Covenant and agree to pay to the Association:

- A. Annual assessments or charges; and
- B. Special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided.

The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment together with such interest, costs and reasonable attorney's fees, shall be a lien on such Lot and shall also be the personal obligation of the owner of such Lot, provided, however, that the personal obligation for delinquent assessments shall not pass to such Owner's successors in title unless expressly assumed by them.

SECTION 11.02. **Purpose of Assessments.** The assessments levied by the Association through its Board of Trustees shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in Cedar Pass Ranch, and in particular, for the services and facilities devoted to this purpose and related to the use and enjoyment of any open space or easements within Cedar Pass Ranch owned by the Association, and further, for the purpose of repairing, reconstructing, replacing and maintaining private roads and ways, footpaths, utilities, landscaping, recreational facilities, if any, and any such other maintenance or improvement obligations which may be deemed necessary for the common benefit of the Owners and the maintenance of property values or which may be incurred by virtue of agreement with or requirement of the County or other governmental authorities. The assessments shall further be used to provide adequate insurance of any and all types and amounts deemed necessary by the Board and to provide such reserves as may be deemed necessary in order to accomplish the objects and purposes of the Association. A portion of the annual assessments shall further be used to provide a reserve fund for the replacement and maintenance of the common areas and the Board shall be obligated to establish such reserve fund.

SECTION 11.03. **Basis and Payment of Annual Assessments.**

- A. The annual assessments with respect to each Lot shall be estimated by the Board prior to the conveyance of the first Lot and shall be payable in advance in annual installments, or in such other installments as the Board may determine.
 - (i) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner other than Grantor, the maximum annual assessment shall be adjusted in conformance with the Consumer Price Index (CPI) published by the U.S. Department of Labor, specifically the Consumer Price Index for Urban Wage Earners and Clerical Workers, U.S. City Average, All Items, unadjusted for seasonal variation. The maximum monthly assessment for any year shall be the amount determined by:
 - (a) Taking the dollar amount specified above;
 - (b) Multiplying that amount by the published CPI number for the second month prior to the beginning of the subject year; and
 - (c) Dividing that resultant by the published CPI number for the month in which this Declaration was recorded.
 - (ii) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, other than Grantor, the maximum annual assessment may be increased above the amount computed in accordance with the provisions of (i) above, by a vote of sixty-six and two-thirds percent (66 2/3%) of each class of members who are voting in person or by proxy, at a meeting duly called for such purpose;

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

B. Annual assessments shall be payable on or before the 10th day of the first month of each calendar year or within ten (10) days of the first day of the first month of any other assessment period adopted by the Association's Board. Written notice of the annual assessment shall be sent to every Owner immediately following the assessment date. The Association shall upon demand of any Owner, prospective purchaser, mortgagees and prospective mortgagees furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

SECTION 11.04. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any reconstruction, repair or replacement of a capital improvement which is situated upon any open space or easement owned by the Association, including the fixtures and personal property related thereto, provided, that any such assessment shall have the assent of sixty-six and two-thirds percent (66 2/3%) of the votes of the Class A members.

SECTION 11.05. Date of Commencement of Actual Assessments; Due Dates. The annual assessments provided for herein shall commence on the first day of the calendar month following the Conveyance of the first Lot to an Owner. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto.

SECTION 11.06. Effect of Nonpayment of Assessments - Remedies of the Association. Any annual or special assessment which is not paid when due shall be delinquent. If the assessment is not paid within fifteen (15) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum and carry a late fee of thirty percent (30%) of the amount due for each month of delinquency. The Association may bring an action at law against the Owner personally obligated to pay the delinquent installments, or foreclose the lien against the Owner's Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of Common Area amenities or his Lot or abandonment of his Lot.

SECTION 11.07. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot as a result of court foreclosure of a first mortgage, foreclosure through the Public Trustee, or any proceeding in lieu of foreclosure, shall extinguish the lien of such assessments as to payments thereof which become due prior to the time such first mortgagee acquires title, but shall not relieve any former Owner of personal liability therefor. No sale or transfer shall relieve such Lot from liability for any assessments becoming due after such first mortgagee acquires title.

SECTION 11.08. Notice to Mortgagee. Upon request of a mortgagee, and upon receipt by the Association of a reasonable fee not to exceed Ten Dollars (\$10.00) for such service, the Association shall report to the mortgagee of a Lot any unpaid assessments or other defaults under the terms hereof which are not cured by said mortgagee's mortgagor within thirty (30) days; provided, however, that a mortgagee shall have furnished to the Association notice of its encumbrance.

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ARTICLE XII

ENFORCEMENT AND NONWAIVER

SECTION 12.01. **Right of Enforcement.** Except as otherwise provided herein, any Owner of any Lot which is subject to this Declaration, regardless of when it became so subject, at Owners own expense, Grantor, and the Board shall have the right to enforce all of the provisions of this Declaration against any other Lot which is subject to the Declaration. Such rights shall apply regardless of when the Lot became subject to the Declaration and regardless of the Owners thereof. Such right of enforcement shall include both damages for and injunctive relief against the breach of any such provision.

SECTION 12.02. **Violation a Nuisance.** Every act or omission whereby any provision of this Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated by any Owner at his own expense, Grantor, and the Board, whether or not the relief sought is for negative or affirmative action. However, only Grantor, the Board and the duly authorized agent of either of them may enforce by self-help any of the provisions of this Declaration and then only if such self-help is preceded by reasonable notice to the owner in violation.

SECTION 12.03. **Violation of Law.** Any violation of any federal, state or local law, resolution or regulation pertaining to the ownership, occupancy or use of any property subject hereto is declared to be a violation of this Declaration and subject to all of the enforcement provisions set forth herein.

SECTION 12.04. **Enforcement in Small Claims Court.** The Association may enforce any fine or delinquent Assessment levied or assessed under this Declaration and any late payment charge attributable thereto, and any interest thereon and the cost of collecting the same under the terms and provisions of any legislation with respect to a "small claims court" as may exist from time to time. The Association may also bring any action at law or equity in any other court available to it under the statutes of the State of Utah for enforcement of any provision of this Declaration.

SECTION 12.05. **Remedies Cumulative.** Each remedy provided by this Declaration is cumulative and not exclusive.

SECTION 12.06. **Nonwaiver.** The failure to enforce any provision of this Declaration at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision hereof.

ARTICLE XIII

MORTGAGEE PROTECTION

SECTION 13.01. **Rights of First Mortgagee of the Lot.** The First Mortgagees of any Lot may, jointly or severally, pay taxes or other charges which are in default and which may or have become a charge against any real or personal property owned by or held as easements by the Association and may pay all the due premiums on hazard insurance policies or secure new hazard insurance coverage on any such property and any such First Mortgagee making such payments shall be owed immediate reimbursement therefor from the Association.

SECTION 13.02. **Professional Management.** Any agreement for professional management entered into by the Association or any other contract providing for services of Grantor or any other developer of the project may not exceed five (5) years in term. Any such agreement must provide for termination by either party to such agreement with or without cause and without payment of a termination fee on ninety (90) days or less written notice.

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ARTICLE XIV

MISCELLANEOUS

SECTION 14.01. **Term.** This Declaration as the same may be amended from time to time hereafter, including all of the covenants, conditions and restrictions hereof, shall run until December 31, 2020, unless said date shall be amended as herein provided. After December 31, 2020, this Declaration, including all such covenants, conditions and restrictions shall be automatically extended for successive periods of ten years each, unless amended or extinguished by a written instrument executed by the owners of at least seventy-five percent (75%) of the Lots then in Cedar Pass Ranch and recorded in the Utah County real property records.

SECTION 14.02. **Mortgage Protection.** Notwithstanding any provision of this Declaration, no lien arising by reason of the breach of or the enforcement of any provision of this Declaration shall defeat or render invalid the rights of the Beneficiary under any recorded Mortgage or Deed of Trust of first and senior priority now or hereafter upon a Lot made in good faith and for value. However, after the foreclosure of any such first Mortgage or Deed of Trust or after any conveyance in lieu of foreclosure, such Lot shall remain subject to this Declaration and shall be liable for all Assessments levied subsequent to such foreclosure or conveyance, and all installments of Assessments levied prior to completion of such foreclosure or before such conveyance but falling due after such completion or such conveyance.

SECTION 14.03. **Amendment.**

- A. Special Provisions.** No amendment of Section 14.02 shall be effective as to any Mortgagee who does not join in the execution thereof, provided that his Mortgage or Deed of Trust is recorded in the real property records of Utah County prior to the recordation of such amendment; provided, however, that after foreclosure or conveyance in lieu of foreclosure the property which was subject to such Mortgage or Deed of Trust shall be subject to such amendment. No amendment of this Declaration shall be effective until executed and recorded in the real property records of Utah County in the manner hereinafter provided.
- B. By Grantor.** Except as provided in Section 14.03A, this Declaration may be amended only by Grantor during the period of Grantor control. If Grantor wishes to amend this Declaration, it shall first give at least ten (10) days written notice to each Owner of a Lot then subject thereto of the time and place of a hearing to be held to consider such amendment. Such notice may be given in person or by mail. If such notice is given by mail, the effective date thereof shall be the third (3) day (other than a Saturday, Sunday or legal holiday) after such notice shall have been deposited in the United States mail, postage prepaid, and addressed to such owner at his address as then shown on the records of the Association, or to the residence of such Owner in Cedar Pass Ranch if his address has not been given to the Association. If the Owners of seventy-five percent (75%) or more of the Lots which on the date of such hearing were subject to this Declaration, by written notice delivered to Grantor within fifteen (15) days after such hearing object to the amendment proposed by Grantor it shall not become effective. No amendment shall be effective until there has been recorded, in the real property records of Utah County, an instrument executed and acknowledged by Grantor setting forth the amendment and certifying that the above mentioned notice and hearing was given and held and that Grantor did not within twenty-five (25) days after said hearing receive written objections to the amendment from the Owners of seventy-five (75%) percent or more of said Lots, as aforesaid.
- C. By Owners.** Except as otherwise provided in Sections 14.03A and 14.03B, this Declaration may only be amended by the affirmative vote of two-thirds (2/3) of all votes entitled to be cast with respect to such amendment by the Owners of the Lots as set forth in Section 10.02 hereof. An instrument evidencing such amendment shall be executed (and such signatures shall be notarized) by either (i) the President and Secretary of the Association confirming that the

Declaration of Covenants, Conditions and Restrictions

necessary number of votes approved the amendment pursuant to this Section (in which case the Association shall maintain adequate written records evidencing such vote), or (ii) by the actual Owners representing two-thirds (2/3) of all votes entitled to be cast with respect to such amendment, which may be done in counterparts by the various Owners. The executed instrument evidencing such amendment shall be recorded in the office of the Utah County Recorder.

- D. Common Owners.** For purposes of Sections 14.03B and 14.03C above, if title to any Lot is held jointly or in common by more than one Person, the vote with respect to said Lot shall be held in the same manner. However, neither fractional votes nor split votes shall be allowed, and all joint or common Owners must object in writing to the proposed amendment under Section 14.03B or approve in writing the proposed amendment under Section 14.03C, as the case may be, or the vote with respect to such Lot shall not be counted.

SECTION 14.04. Interpretation. The Provisions of this Declaration shall be liberally construed to effectuate their purposes of creating a uniform plan for the development of the Lots subject hereto and of promoting and effectuating the fundamental concepts of Cedar Pass Ranch as set forth in the RECITALS and DECLARATION of this Declaration. This Declaration shall be construed and governed under laws of the State of Utah.

SECTION 14.05. Construction.

- A. Restrictions Severable.** Notwithstanding the provisions of the foregoing Section 14.04 each of the provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.
- B. Singular Includes Plural.** Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.
- C. Captions.** All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any paragraph, section or article hereof.

SECTION 14.06. Variance Approval Process. Without amending specific Covenants, Conditions or Restrictions, the Cedar Pass Ranch Homeowners' Association Board of Trustees shall, during a period of Grantors' (Cedar Pass L.C) or Owners' control, by a majority vote of the Board of Trustees, or at the request of a Lot Owner(s) with a petition bearing valid signatures from all Owners representing at least 10 Lots, call for a hearing and a ballot to go out to all members to determine whether an exception, exclusion, exemption, variance, or waiver with limited scope and effect, and carefully detailed, may be allowed due to special or unusual circumstances. If the Board of Trustees initiates the hearing and balloting, the Association shall bear the costs of the mailing. Otherwise, the initiator(s) who bring forth the signed petition and call for the vote shall either provide money in advance or timely reimbursement of the expenses such as photocopying, envelopes, postage, etc. for this balloting process. The noticing time shall be ten (10) days in advance of the hearing, and written objections shall be taken for fifteen (15) days after the hearing. If such notice is given by mail the effective date thereof shall be the third (3rd) day (other than a Saturday, Sunday, or legal holiday) after such notice shall have been deposited in the United States mail, postage prepaid, and addressed to such Owner at his address as then shown on the records of the Association, or to the residence of such Owner in Cedar Pass Ranch if hand delivered or if his address has not been given to the Association.

Upon receipt of completed and valid ballots from 50% or more of the lot Owners (members) and 75% or more of the total votes giving favorable response to the proposal, the Architectural Committee shall grant such an exception, exclusion, exemption, variance, or waiver in writing for non-conformance. For such a question, Class A members

Declaration of Covenants, Conditions and Restrictions

shall have one (1) vote per Lot owned without a residence or purchased building permit or two (2) votes per lot owned with a residence or purchased building permit. The Class B member, Grantor or Cedar Pass LC, shall have three (3) votes per lot owned at the time of the hearing. If title to any lot is held jointly or in common by more than one person, the vote with respect to the said lot must include the signature of all joint or common Owners, and neither fractional nor split votes shall be allowed. Once a precedent has been set regarding the special or unusual circumstances for a Lot Owner(s), the Board of Trustees may consider and approve closely related and very similar situations and grant approval without the necessity of re-voting on the same issue.

SECTION 14.07. Appeal of Board of Trustees or Architectural Committee Decisions. It shall be the right of any lot Owners (members) who desire a hearing and appeal relating to any violation, fine, or other Board of Trustees or Architectural Committee decision to request such from the President of the Board of Trustees or the Chairperson of the Architectural Committee. At a regular or special meeting of the Board of Trustees or the Architectural Committee, as the case may be, the Lot Owner(s) shall be allowed time to represent comments in writing, in person, or by proxy, for review and consideration, and the Board of Trustees or Architectural Committee shall by majority vote (of number on full Board of Trustees or full Architectural Committee, whether all are present or not) decide to let stand the original decision or make such changes as shall be deemed appropriate to accommodate those making the appeal. The Secretary of the Board of Trustees or the Architectural Committee, as the case may be, shall keep written minutes of all such appeals and decisions made.

The lot Owner(s) shall have the right to request a further hearing (re-hearing) and appeal to the Board of Trustees by contacting the Secretary of the Board of Trustees or to the Architectural Committee by contacting the Secretary of the Architectural Committee. Preliminary information regarding the issue shall be presented to the respective Secretary by the lot Owner(s) and by the Chairperson of the Architectural Committee (unless he or she is a member of Board of Trustees). The Board of Trustees or the Architectural Committee shall then decide, upon a good cause showing, whether to allow a re-hearing and appeal or not, based on submitted information.

If the appeal re-hearing is granted, the lot Owner(s) shall present their comments in person, or by proxy, to the Board of Trustees (with Architectural Committee representative(s), as invited, to give their side of the issue) or to the Architectural Committee. A decision shall be made by the majority vote (of number on the full Board of Trustees or on the full Architectural Committee) whether to let stand the original decision or to approve a different action. The Secretary of the Board of Trustees shall keep minutes of the hearing and the final disposition of the appeal.

ARTICLE XV

EXEMPTION OF GRANTOR FROM CONTROL OF ARCHITECTURAL COMMITTEE

Anything to the contrary in any other part of this Declaration notwithstanding, this Declaration is not meant to, does not, and shall not be construed as (i) subjecting Grantor or any of Grantor's activities to the control or jurisdiction of the Cedar Pass Ranch Architectural Committee; or (ii) eliminating or restricting any right, power, privilege or exemption of Grantor under Declaration.

ARTICLE XVI

FUTURE INCORPORATION AS MUNICIPALITY

Grantor may determine, at some future time, that incorporation of Cedar Pass Ranch as a municipality is desirable to preserve the attractiveness, quality and value of the lands and improvements therein, to maintain control by the Owners of Lots over the community within and around Cedar Pass Ranch as it develops and to provide necessary or desirable services to the community. The Owners of Lots, by acceptance of a deed to

Declaration of Covenants, Conditions and Restrictions

their Lots, agree to cooperate with Grantor to bring about such incorporation and to sign a petition to the county legislative body for that purpose.

IN WITNESS WHEREOF, Grantor has executed this Declaration the day and year first above written.

CEDAR PASS L.C.

[signed and notarized]

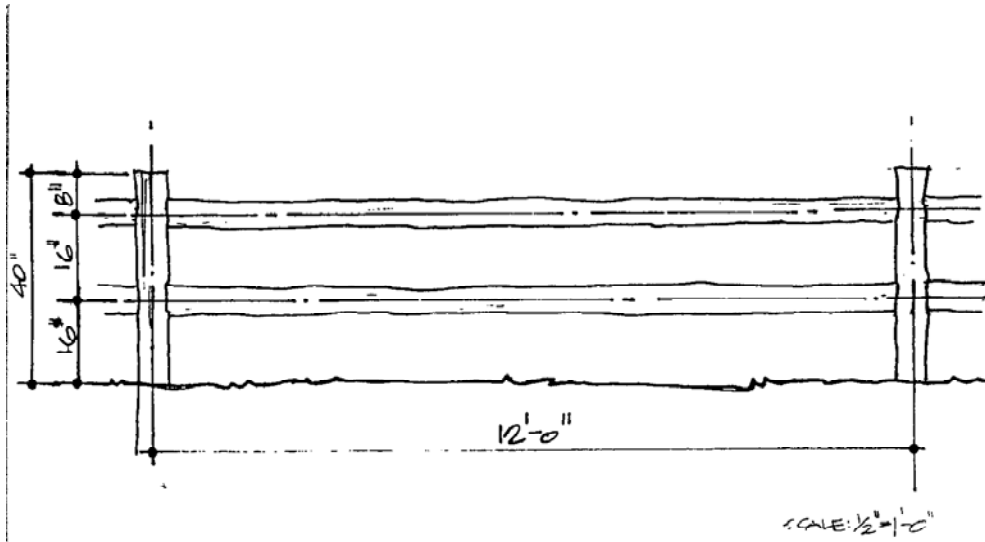
Declaration of Covenants, Conditions and Restrictions

EXHIBIT A

Beginning at the Northwest corner of Section 19, Township S South, Range 1 West, Salt Lake Base and Meridian; THENCE South 51 degrees 21' 45" East 1397.02 feet; THENCE North 89 degrees 35' 33" East 1359.97 feet to the East Boundary of the Northwest Quarter of Section 19; THENCE North 00 degrees 31' 41" East along said East Boundary 832.86 feet; THENCE North 89 degrees 18' 21" West 1891.42 feet to the Easterly Boundary of Fort Crittenden Military Reservation; THENCE the following two courses and distances along said Easterly Boundary of Fort Crittenden Military Reservation: North 12 degrees 08' 21" West 173.58 feet, and North 15 degrees 26' 39" East 6.66 feet to the North Boundary of said Northwest Quarter of Section 19; THENCE South 89 degrees 12' 11" East along Section Line 1927.77 feet to the North Quarter corner of Section 19; THENCE South 89 degrees 29' 29" East along Section Line 2653.32 feet to the Northeast corner of Section 19; THENCE South 00 degrees 54' 13" East along Section Line 2697.82 feet to the East Quarter corner of Section 19; THENCE South 88 degrees 40' 37" West along the South Boundary of the Northeast Quarter of Section 19, 2722.15 feet to the Center quarter corner of Section 19; THENCE South 00 degrees 31' 40" West along the East Boundary of the Southwest Quarter of Section 19, 145.53 feet to the centerline of the Union Pacific Railroad Right of Way; THENCE South 71 degrees 16' 59" West along said centerline, 2624.55 feet to the West Boundary of the Southwest Quarter corner of Section 19; THENCE North 00 degrees 48' 00" East along Section line 930.67 feet to the West corner of Section 19; THENCE North 00 degrees 50' 06" East along Section Line 2049.51 feet to the Northeasterly Bank of Tickville Gulch; THENCE the following four courses and distances along said Northeasterly bank: North 71 degrees 43' 28" West 35.56 feet; THENCE North 35 degrees 41' 55" West 208.78 feet; THENCE North 38 degrees 10' 18" West 447.17 feet; THENCE North 52 degrees 18' 48" West 347.75 feet; THENCE North 53 degrees 17' 00" East 976.92 feet to the South Right of Way Line of State Route 73; THENCE North 74 degrees 43' 48" East along said Right of Way Line 269.88 feet to the West Boundary of the Southwest Quarter of Section 18, Township 5 South, Range 1 West; THENCE South 00 degrees 41' 39" West along Section Line 511.56 feet to the point of beginning.

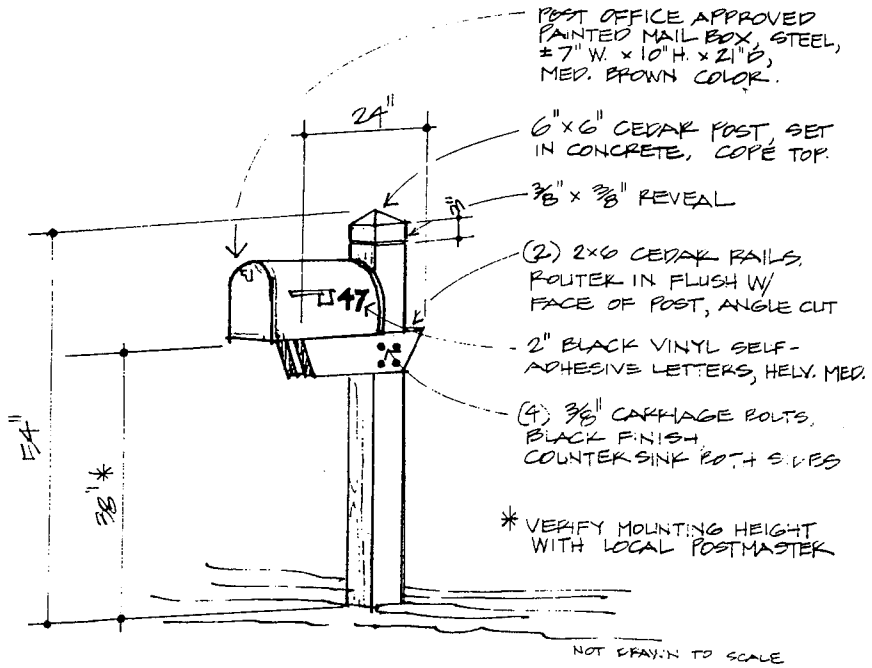
Beginning at the Southwest corner of Section 17, Township 5 South, Range 1 West, Salt Lake Base and Meridian; THENCE North 00 degrees 14' 17" East along Section Line 1166.62 feet to the South right-of-way Line of State Route 73; THENCE North 89 degrees 16' 50" East along said right-of-way Line 606.09 feet; THENCE South 00 degrees 14' 17" West 1295.54 feet; THENCE along the arc of a 335.00 foot radius curve to the right 118.13 feet (central angle = 20 degrees 12' 14"), the chord of which bears South 29 degrees 43' 37" West for 117.52 feet; THENCE South 39 degrees 49' 44" West 431.45 feet; THENCE along the arc of a 335.00 foot radius curve to the right, 295.31 feet (central angle - 50 degrees 40' 45") , the chord of which bears South 65 degrees 10' 07" West for 286.74 feet to Section Line; THENCE North 00 degrees 54' 13" West along Section Line 675.21 feet to the point of beginning.

EXHIBIT B



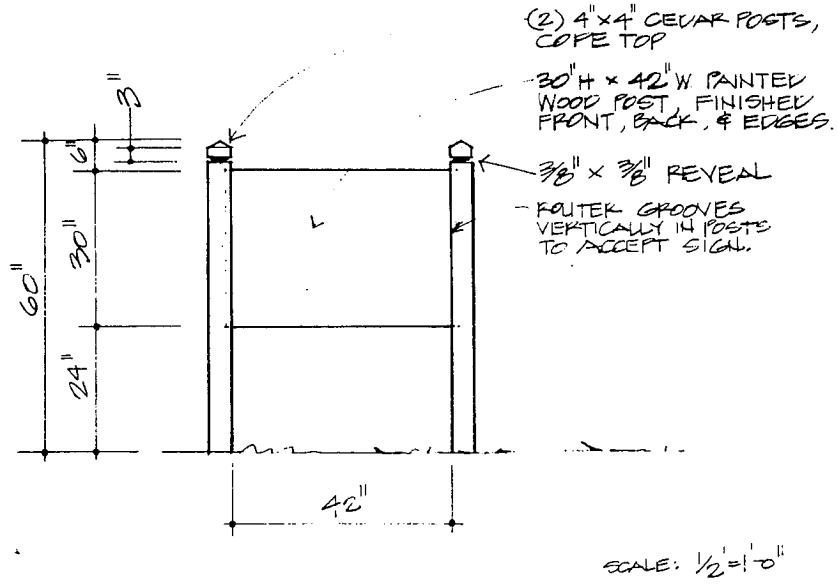
SPLIT RAIL FENCE

EXHIBIT C



MAIL BOX STANDARD

EXHIBIT D



FOR SALE/LEASE SIGN

Declaration of Covenants, Conditions and Restrictions

VARIANCES

Variance 1. **Carroll Lot 3 Setback.** Grants a variance from Section 3.03 Property Line Setback, requiring 50 foot side setback, to Lou and Karen Carroll, Lot 3, for encroaching 10 feet into said setback between Lots 3 and 4 due to a construction error placing the concrete foundation of a detached garage too close to the side property boundary.

Variance 2. **Fence Distance from Road.** Grants a variance from Section 8.07 Fencing (as "installed by the developer" assumed to mean one (1) foot inside the property boundary), so that in cases where it is impractical or very expensive and difficult to place a fence one (1) foot inside the property line, the Architectural Committee may grant approval for the fence to be installed as close as possible to the location that would normally be in compliance. The roadway easement ("roadside") from the pavement to the property line is approximately sixteen (16) feet. Situations envisioned are those with nearly solid rock at the site the fence should be placed, those where the fence crosses a bridge or other circumstances.

Variance 3. **Allow Shallow Roof Pitches on Loafing Sheds.** Loafing sheds are in-field shelters for livestock. They are generally no more than 10 feet high, but often exceed 200 square feet in floor space. These stalls are generally pre-fabricated with shallow roof pitches. Several homeowners have asked for the ability to use these structures to give their animals protection during both Summer and Winter months. Allowing shallow roof pitches would reduce the visual impact of these shelters and give property owners the ability to use prefabricated sheds, which would still require approval.

Variance 4. **Allow 4:12 Roof Pitches on Large Outbuildings.** The requirement for steep roof pitches increases the visual impact of large garages and barns, sometimes making these buildings appear much larger than homes on adjacent lots and occasionally obstructing the views enjoyed by neighbors. The Board would allow a shallower roof pitch (4:12) when warranted to reduce the apparent size of large structures.

Articles of Incorporation

**ARTICLES OF INCORPORATION
OF
CEDAR PASS RANCH
HOMEOWNERS' ASSOCIATION, INC.**

In compliance with the requirements of the Utah Nonprofit Corporation and Cooperative Association Act, Section 16-6-18, at seq., the undersigned, a resident of the County of Arapahoe, State of Colorado and who is of full age, for the purpose of forming a corporation not for profit and does hereby certify:

ARTICLE I

The name of the corporation is "Cedar Pass Ranch Homeowners' Association, Inc.", hereinafter called the "Association".

ARTICLE II

The principal office of the Association is located at: 65 North 920 East, Orem, Utah 84057.

ARTICLE III

Scott Kirkland, whose address is 65 North 920 East, Orem, Utah 84057, is hereby appointed the initial registered agent of this Association and the address of the initial registered office of the Corporation is: 65 North 920 East, Orem, Utah 84057.

ARTICLE IV

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for maintenance of the common areas, Easements and the preservation and architectural control of the Real Property described on Exhibit A attached hereto and incorporated by reference herein, and to promote the health, safety and welfare of the residents within the above-described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association, and for these purposes to:

- (a) Exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions and Restrictions for Cedar Pass Ranch (hereinafter called "Declaration"), recorded in the office of the Recorder of the County of Utah, State of Utah, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length.
- (b) Fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association.
- (c) Acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association.

Articles of Incorporation

- (d) Borrow money, and with the assent of three-fourths (3/4) of the members to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.
- (e) Dedicate, sell or transfer all or any part of the Property owned by the Association to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by the members entitled to vote, three-fourths (3/4) of the votes, agreeing to such dedication, sale or transfer.
- (f) Have and to exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation Law of the State of Utah by law may now or hereafter have or exercise.
- (g) Notwithstanding the above, unless three-quarters (3/4) of the first mortgagees of Lots within the Properties (based upon one vote for each first mortgage owned or held) have given their prior written approval, the Association shall not be empowered or entitled to:
 - (1) by act or omission, seek to abandon, partition, encumber, sell or transfer any common areas or Easements owned by the Association.
 - (2) fail to maintain fire and extended coverage insurance on any common areas, Easements and the improvements on such in an amount not less than full replacement value.
 - (3) use hazard insurance proceeds for loss to the improvements situated on any common areas or Easements for other than the repair, replacement or reconstruction of such improvements.
 - (4) change the method of determining assessments which may be levied against a Lot owner.

ARTICLE V

MEMBERSHIP

Every person or entity who is a record Owner of a fee or undivided fee interest in any Lot which is subject by the terms of the Declaration to assessment by the Association, including the Declarant, as said term is defined in the Declaration, and every contract buyer shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessments by the Association.

ARTICLE VI

VOTING RIGHTS

The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. 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 shall be the Declarant (as defined in the Declaration) and shall be entitled to three (3) votes for each Lot owned. The

Articles of Incorporation

Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs later:

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- (b) December 31, 2002.

ARTICLE VII

BOARD OF TRUSTEES

The affairs of the Association shall be managed by a Board of five (5) Trustees, who need not be members of the Association. The number of Trustees may be changed by amendment of the By-Laws of the Association. The names and addresses of the persons who are to act in the capacity of Trustees until the selection of their successors are:

Phillip W. Nolan	5803 Green Oaks Drive Littleton, Colorado 80121
Grant E. Marsh	54 Glenmoor Way Englewood, Colorado 50110
Scott Kirkland	65 North 920 East Orem, Utah 84057
Don Woodhouse	6255 South Crocker Street Littleton, Colorado 50120
Debbie Hooge	1045 North 70 West American Fork, Utah 84003

At the first annual meeting, the members shall elect one (1) Trustee for a term of three (3) years, two (2) Trustees for a term of two (2) years and two (2) Trustees for a term of one (1) year: and at each annual meeting thereafter the members shall elect Trustees for a term of two (2) years.

Notwithstanding the above, the Class B voting members shall have the exclusive right to nominate and elect all of the Association's Board of Trustees until such time as Class B membership ceases, or December 31, 2002, whichever event occurs last.

ARTICLE VIII

DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by not less than three-quarters (3/4) of the members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets will be granted, conveyed, and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes.

Articles of Incorporation

ARTICLE IX

DURATION

The Corporation shall exist perpetually.

ARTICLE X

AMENDMENTS

Amendments to these Articles shall require the assent of seventy-five percent (75%) of the entire membership.

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of Utah, I, the undersigned, the incorporator of this Association, have executed these Articles of Incorporation this day of 1995.

Address of Incorporator:

[Signature of Grant E. Marsh]
Grant E. Marsh
54 Glenmoor Way
Englewood, Colorado 80110

[notarized]

SIGNATURE OF REGISTERED AGENT

[Signature of Scott Kirkland]
Scott Kirkland
65 North 920 East
Orem, Utah 84057

By-Laws

BY-LAWS OF CEDAR PASS RANCH HOMEOWNERS' ASSOCIATION, INC.

ARTICLE I

NAME AND LOCATION

The name of the corporation is CEDAR PASS RANCH HOMEOWNERS' ASSOCIATION, INC. (hereafter referred to as the "Association"). The principal office of the corporation shall be located at: 65 North 920 East, Orem, Utah, but meetings of members and Trustees may be held at such places within the State of Utah, County of Utah, as may be designated by the Board of Trustees.

ARTICLE II

DEFINITIONS

Section 1. "**Association**" shall mean and refer to the CEDAR PASS RANCH HOMEOWNERS' ASSOCIATION, INC., its successors and assigns.

Section 2. "**Properties**" shall mean and refer to that certain Real Property described in the Declaration of Covenants, Conditions and Restrictions for Cedar Pass Ranch and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "**Common Area**" shall mean all Real Property owned by the Association for the common use and enjoyment of the Owners.

Section 4. "**Easements**" shall mean all Easements on Lots and other Real Property held by the Association for the common use and enjoyment of the Owners.

Section 5. "**Lot**" shall mean and refer to any of the numbered plots of land together with the improvements shown upon any recorded plat of the Properties with the exception of the Common Area.

Section 6. "**Owner**" shall mean and refer to the record Owner, whether one or more persons or entities, of the fee simple title to any Lot which is part of the Properties, including Declarant and contract Seller, but excluding those having such interest merely as security for the performance of an obligation.

Section 7. "**Declarant**" shall mean and refer to Cedar Pass L.C., its successors and assigns if such successors and assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 8. "**Declaration**" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to Properties recorded in the office of the Recorder of Utah County, State of Utah.

Section 9. "**Member**" shall mean and refer to those persons entitled to membership as provided in the Declaration.

ARTICLE III

MEETING OF MEMBERS

Section 1. **Annual Meetings.** The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent

By-Laws

regular meeting of the members shall be held on the second Saturday of August with a rain reschedule date, if necessary, of the third Saturday of August.

Section 2. **Special Meetings.** Special meetings of the members may be called at any time by the President or by the Board of Trustees, or upon written request of the members who are entitled to vote one-fourth (1/4) of all the votes of the Class A membership.

Section 3. **Notice of Meetings.** Written notice at each meeting of the members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of said notice, postage prepaid, at least ten (10) days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. **Quorum.** The presence at the meeting of members entitled to cast, or of proxies entitled to cast one-fourth (1/4) of the votes shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. **Proxies.** At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot.

ARTICLE IV

BOARD OF TRUSTEES: SELECTION: TERM OF OFFICE

Section 1. **Number.** The affairs of this Association shall be managed by a Board of seven (7) Trustees.

Section 2. **Term of Office.** At the first annual meeting after the expiration of Declarants Right to Elect Trustees the members shall elect one (1) Trustee for a term of three (3) years, two (2) Trustees for a term of two (2) years and two (2) Trustees for a term of one (1) year; and at each annual meeting thereafter the members shall elect Trustees for a term of two (2) years.

Section 3. **Removal.** Any Trustee may be removed from the Board, with or without cause by a two-thirds (2/3) vote of the members of the Association. In the event of death, resignation or removal of a Trustee, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. **Compensation.** No Trustee shall receive compensation for any service he may render to the Association. However, any Trustee may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. **Action Taken Without a Meeting.** The Trustees shall have the right to take action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Trustees. Any action so approved shall have the same effect as though taken at a meeting of the Trustees.

By-Laws

ARTICLE V

NOMINATION AND ELECTION OF TRUSTEES

Section 1. **Nomination.** Nomination for election to the Board of Trustees shall be made from the floor at the annual meeting. Such nominations may be made from among members only.

Section 2. **Election.** Election to the Board of Trustees shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 3. Notwithstanding the above Section, Class B voting members shall have the exclusive right to nominate and elect all of the Association's Board of Trustees until such time as Class B Membership ceases, or December 31, 2002, whichever event occurs last.

ARTICLE VI

MEETINGS OF TRUSTEES

Section 1. **Regular Meetings.** Regular meetings of the Board of Trustees shall be held quarterly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. **Special Meetings.** Special meetings of the Board of Trustees shall be held when called by the President of the Association, or by any two Trustees, after not less than three (3) days notice to each Trustee.

Section 3. **Quorum.** A majority of the number of Trustees shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Trustees present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VII

POWERS AND DUTIES OF THE BOARD OF TRUSTEES

Section 1. **Powers.** The Board of Trustees shall have power to:

- (a) Adopt and publish Rules and Regulations governing the use of the Common Area, Easements and facilities, and the personal conduct of the members and their tenants, invitees, and guests thereon, and to establish penalties or fines for the infraction thereof;
- (b) Suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed thirty (30) days for infraction of published rules and regulations;
- (c) Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation or the Declaration;

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- (d) Declare the office of a member of the Board of Trustees to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Trustees; and
- (e) Employ a manager, an independent contractor, independent management company or such other employees as they deem necessary and to prescribe their duties.

Section 2. **Duties.** It shall be the duty of the Board of Trustees to:

- (a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting when such statement is requested in writing by one-third (1/3) of the Class A members who are entitled to vote;
- (b) Supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;
- (c) As more fully provided in the Declaration, to:
 - (1) Fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;
 - (2) Send written notice of each assessment to every owner subject thereto at least thirty (30) days in advance of each annual assessment period; and
 - (3) Collect any assessments which are not paid within thirty (30) days after due date;
- (d) Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- (e) Procure and maintain adequate liability and hazard insurance on property owned by the Association and as provided by the Declaration;
- (f) Cause all officers or employees having fiscal responsibilities to be bonded;
- (g) Cause any Common Area and Easements held by the Association with the attendant improvements to be maintained;
- (h) Cause the Properties to be managed at the Board's discretion by a Professional Real Estate management Company licensed to do business in the State of Utah.

ARTICLE VIII

OFFICERS AND THEIR DUTIES

Section 1. **Enumeration of Officers.** The officers of this Association shall be a President, who shall at all times be a member of the Board of Trustees, a Vice President, a Secretary and a Treasurer, and such other officers as the Board may, from time to time, by resolution, create.

Section 2. **Election of Officers.** The election of officers shall take place at the first meeting of the Board of Trustees following each annual meeting of the members.

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Section 3. **Term.** The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. **Special Appointments.** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time determine.

Section 5. **Resignation and Removal.** Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. **Vacancies.** A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. **Multiple Offices.** The offices of Secretary and Treasurer may be held by the same person. No personnel shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. **Duties.** The duties of the officers are as follows:

President

- (a) The President shall preside at all meetings of the Board of Trustees; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

Vice President

- (b) The Vice President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

- (c) The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

Treasurer

- (e) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Trustees; shall sign all checks and promissory notes of the Association; keep proper books

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of account; cause an annual unaudited statement of the Association's financial records to be prepared by a certified public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

ARTICLE IX

COMMITTEES

The Association shall appoint an Architectural Committee as provided in the Declaration. In addition, the Board of Trustees shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE X

MORTGAGEES

Section 1. **Inspection of Records by Mortgagee.** Any first mortgagee of a Lot shall have the right to inspect the books and records of the Association during reasonable business hours.

Section 2. **Financial Reports.** Any first mortgagee of a Lot, upon written request, shall be entitled to receive an annual financial statement of the Association within ninety (90) days from the end of its fiscal year.

Section 3. **Mortgagee as Proxy.** Each Owner shall have the right to irrevocably constitute and appoint the beneficiary of a trust deed their true and lawful attorney to cast their vote in this Association at any and all meetings of the Association and to vest in the beneficiary any and all rights, privileges and powers that they have as Lot Owners under the Articles of Incorporation and By-Laws of this Association or by virtue of the recorded Declaration of Covenants, Conditions and Restrictions. Such proxy shall become effective upon the filing of notice by the beneficiary with the Secretary of the Association at such time or times as the beneficiary shall deem its security in jeopardy by reason of the failure, neglect or refusal of the Association, the Managing Agent or the Lot Owners to carry out their duties as set forth in the Declaration of Covenants, Conditions and Restrictions. A release of the beneficiary's Deed of Trust shall operate to revoke such proxy. Nothing herein contained shall be construed to relieve a Lot Owner as a mortgagor of their duties and obligations as Lot Owners or to impose upon the beneficiary of the Deed of Trust the duties and obligations of a Lot Owner.

ARTICLE XI

ASSESSMENTS

As more fully provided in the Declaration, each member shall be obligated to pay to the Association annual and special assessments which assessments are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days of delinquency, the delinquent amount shall accrue penalty interest at the rate of twelve percent (12%) per annum, and the Association may assess thirty percent (30%) per month late charge. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. Interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

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ARTICLE XII

CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: "Cedar Pass Ranch Homeowners' Association, Inc., Utah."

ARTICLE XIII

AMENDMENTS

Section 1. These By-Laws may be amended, at a regular or special meeting of the members, by a vote of three-fourths (3/4) of a quorum of members present in person or by proxy.

Section 2. In case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE XIV

INDEMNIFICATION OF OFFICERS, TRUSTEES AND MANAGING AGENT

The Association shall indemnify every Trustee, Officer, Managing Agent, their respective successors, personal representatives and heirs, against all losses, costs and expenses, including counsel fees, reasonably incurred by him in connection with any action, suit or proceeding to which he may be made a party by reason of his being or having been a Trustee, Officer or Managing Agent of the Association, except as to matters as to which he shall be finally adjudged in such action, suit or proceeding to be liable for gross negligence or willful misconduct. In the event of a settlement, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Association is advised by counsel that the person to be indemnified has not been guilty of gross negligence or willful misconduct in the performance of his duty as such Trustee, Officer Or Managing Agent may be entitled. All liability, loss, damage, cost and expense incurred or suffered by the Association by reason or arising out of or in connection with the foregoing indemnification provisions shall be treated and handled by the Association as common expenses; provided, however, that nothing in this Article XIV contained shall be deemed to obligate the Association to indemnify any member or Owners of a Lot who is or has been a Trustee or Officer of the Association with respect to any duties or obligations assumed or liabilities incurred by him under and by virtue of the Declaration.

ARTICLE XV

MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, we being all of the Trustees of CEDAR PASS RANCH HOMEOWNERS' ASSOCIATION, INC., have hereunto set our hands this 11th day, of August, A.D., 1995.

[signatures of board members]