

DECLARATION OF PROTECTIVE COVENANTS FOR DEER HOLLOW

a residential subdivision located in
Parowan, Utah

CDR Homes, Inc., a Utah corporation (“Declarant”), owns certain real property in Iron County, Utah, which is more particularly described as:

See Exhibit A attached hereto and incorporated herein by this reference

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

ARTICLE 1 DEFINITIONS

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

- 1.1. **“Declarant”** means CDR Homes, Inc., and its heirs, successors, and assigns.
- 1.2. **“Declaration”** means this instrument and any amendments, restatements, supplements, or annexations thereto, which are recorded in the office of the Iron County Recorder.
- 1.3. **“Development Phase”** means the period of time in which the Declarant owns a Lot within the Property, or is otherwise actively marketing or selling Lots or marketing, selling, or constructing Residences within the Property.
- 1.4. **“Lot”** means a separately numbered and individually described plot of land shown on the Plat designated as a Lot for private ownership.
- 1.5. **“Lot Owner”** means and is synonymous with the term “Owner”.
- 1.6. **“Owner”** means the entity, person, or group of persons owning fee simple title to any Lot which is within the Property.

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

1.8. **“Property”** means that certain real property hereinbefore described, and such annexations and additions thereto as may hereafter be subjected to this Declaration.

1.9. **“Residence”** means a single family residence constructed on any Lot within the Property.

ARTICLE 2

USE RESTRICTIONS

2.1. **Land Use.** All Lots shall be used only for detached single family residential purposes. As used herein, the term “family” is defined to mean persons related by blood or marriage, by legal adoption, or by operation of law. No professional, business or commercial use shall be made of the same, or any portion thereof; provided, however, that the Lot restrictions contained in this section shall not be construed in such a manner as to prohibit an owner or resident from (a) maintaining a personal professional library therein; (b) keeping personal business or professional records or accounts therein; or (c) handling personal, business or professional telephone calls or correspondence therefrom.

2.2. **Lot Size.** Lot sizes as described on the Plat are considered minimum Lot sizes. No person shall further subdivide any Lot other than as shown on the Plat. Lots may not be combined for construction of a single residence.

2.3. **Care and Maintenance of Lots.** Every Lot Owner shall keep their Lot free from rubbish, litter and noxious weeds. All structures, landscaping and improvements shall be maintained in good condition and repair at all times. Each Lot shall be subject to an easement for access to make repairs upon adjoining Lots and structures; provided however, that:

(a) Any damage caused by such entry shall be repaired at the expense of the owner whose property was the subject of the repair work which caused the same;

(b) Any such entry shall be made only where necessary and at reasonable times and with as little inconvenience as possible to the owner of the entered Lot; and

(c) In no event shall said easement be deemed to permit entry into the interior portion of any Residence.

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

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

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

2.7. **Animals, Livestock, Poultry, and Agriculture.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any of said Lots, except that dogs, cats or other household pets, may be kept provided that they are not kept, bred or maintained for any commercial purpose. Notwithstanding the foregoing, no animals, reptiles or fowl may be kept on the Property which result in an annoyance or are obnoxious, by noise, smell or otherwise, to Lot Owners.

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

2.9. **Sewage Disposal.** Each Residence shall be connected to and use the public sewage disposal system.

2.10. **RVs, Boats, and Inoperable Vehicles.** Boats, trailers, campers, recreational vehicles, or other such vehicles are allowed provided they are parked or stored on a cement or concrete pad behind the required front Lot line set-back area. No such vehicles shall be parked overnight on any street located within the Property. Motor vehicles that are inoperable shall not be permitted to remain upon any street or lot or road areas adjacent thereto. In the event an inoperable motor vehicle remains upon any Lot or road area for a period exceeding thirty (30) days, the Declarant or other Lot Owners may remove the inoperable motor vehicle after a ten (10) day written notice to the Owner. The cost of such removal shall attach to the vehicle and the Lot as a valid lien in favor of the persons, entities, or parties causing such removal. For the purpose of this section, "inoperable motor vehicle" shall mean any motor vehicle that is unable to operate in a normal manner upon the streets under its own power, or is unlicensed or unregistered for a period of more than six (6) weeks.

2.11. **Declarant's Business, Marketing, and Sales.** Notwithstanding any provisions to the contrary herein contained, it shall be expressly permissible for Declarant, or its written designee, to maintain such facilities and conduct such activities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the construction of Residences and sale of Lots during the Development Phase, and upon such portion of the Property as Declarant deems necessary, including but not limited to, a business office, storage areas, construction yard, signs, model units and sales offices.

ARTICLE 3
ARCHITECTURAL CONTROL

3.1. **Architectural Control Committee.**

(a) Approval Required. Approval of the Architectural Control Committee ("ACC") is required prior to the commencement of any excavation, construction or remodeling of any structure or of any addition to any structure, or modification of the natural topography of any Lot, or installation of fences or landscaping elements.

(b) Composition of ACC. During the Development Phase, the Declarant shall act as or appoint individuals to serve on the ACC. Thereafter, a majority of the Owners shall elect and appoint members of the ACC. After the Development Phase, the ACC shall be composed of at least three (3) members, each of which shall be an Owner.

(c) Submission of Plans. One (1) set of building plans and specifications shall be filed with the ACC, together with a site or plot plan showing grading, landscaping and all lighting, indicating the exact part of the building site which the improvements will cover, with such a fee as the ACC may determine from time to time, and an application and such supporting material, such as samples of building materials, as the ACC deems necessary. No work shall commence unless and until the ACC endorses the plans with its written approval that such plans are in compliance with the covenants herein set forth and with the standards herein or hereafter established by said ACC pursuant to the authority of this Declaration.

(d) Rights of Approval. The ACC shall have the right to refuse or approve any plans and specifications and shall have the right, in so doing, to take into consideration the suitability of the proposed building, the materials of which it is to be built, the site upon which it is proposed to be erected, the harmony thereof with the surroundings, and the effect of said building, or other structure so planned, on the outlook from adjacent or neighboring property.

(e) Architectural Standards. The ACC may promulgate and maintain a list of standards for guidance in approving or disapproving plans and specifications pursuant to this Article.

(f) Non-Liability. The ACC shall not be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this Article. Any errors or omissions in the design of any building, other improvement or

landscaping and any violation of any governmental ordinance are the sole responsibility of the Lot Owner and the Lot Owner's designer, architect, or contractor. The ACC's review of plans shall in no way be concerned with structural or mechanical integrity or soundness.

(g) Time Frame for Action. In the event the ACC fails to approve or disapprove in writing any such plans within sixty (60) days after the submission thereof to the ACC, then approval shall be deemed to have been given.

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

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

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

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

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

(a) Purpose and Intent. The intent of these Design Restrictions is to encourage a blending of styles within the Property with the natural surroundings and prevailing architecture of the created environment of the Property. These standards allow design latitude and flexibility, while ensuring that the value of the Property will be enhanced through the control of site planning, architecture and landscape elements.

(b) ACC Enforcement. The ACC may levy a fine or penalty of up to fifty dollars (\$50) against any Owner who fails to refrain from violating these Design Restrictions. A fine may be levied for each day of a continuing violation. All attorneys fees and costs incurred in any such action, and all expenses incurred and any fines levied, shall constitute a lien on such Lot Owner's Lot, and shall also be a personal obligation of said Lot Owner, enforceable at law, until such payment therefore is made. Enforcement under this provision shall be in addition to any mechanism of enforcement provided in this Declaration or by applicable law.

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

(d) Minimum Area. The minimum total square footage of living area on the ground floor located within the building envelope and foundation for any single-story Residence constructed on any Lot within the Property shall be not less than 1,400 square feet, exclusive of porches, balconies, patios and the first 600 square feet of any garage. Two-story Residences shall have a minimum of 1,000 square feet on the main level, with a total square footage of not less than 1,400 square feet, exclusive of basements, porches, balconies, patios and the first 600 square feet of any garage.

(e) Setbacks. Minimum setback standards shall be in accordance with the setback standards established by the applicable zoning and subdivision ordinances of Parowan City.

(f) Roof Materials. Roof material shall be limited to architectural asphalt shingles, or concrete tiles or such other materials as may be allowed by the ACC. Colors shall be subdued earth tones or such other colors as may be allowed by the ACC.

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

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

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

(j) Building Height. Maximum building height shall be in accordance with the standards established by the applicable zoning and subdivision ordinances of Parowan City.

Provided, however, that the height of no building shall unreasonably interfere with the sightlines or view of neighboring lots.

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

(l) Accessory Buildings and Structures. Storage or utility buildings are allowed, provided that such buildings are of a color that complies with the architectural guidelines set forth in this Declaration.

(m) Driveways and Parking. There shall be area on the driveway (excluding sidewalk areas) to park not less than two vehicles per Lot. Each driveway on a Lot shall be constructed out of cement, brick, concrete, or interlocking pavers. Cinders, sand, gravel, asphalt or dirt shall not be permitted for driveway material in the front and side yard area of any Lot. The driveway in the front and side yard areas of each Lot shall be in a color which blends with the exterior of the structure located on such Lot.

(n) Fencing and Walls. Fencing, walls and other barriers shall be approved by the ACC and constructed of an approved material and color. Permitted materials for fencing and walls erected between Lots and otherwise constructed around the perimeter of Lots shall be concrete or cinder block of an earth tone color or a privacy fence of vinyl materials in a tan or white color. No fences shall be constructed in the front setback area unless necessary for drainage or support. No wire mesh, chain link, or wooden fences are allowed.

(o) Satellite Dishes, External Television, or Other Antennas. Except for antenna designed to receive direct satellite services, including direct-to-home satellite services, that is one meter or less in diameter or an antenna designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional televisions fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement ("Permitted Antennas"), antennas for radio, television, or device for the reception or transmission of radio, microwaves or other similar signals are restricted to the attic or interior of the Residence. Consistent with applicable law, the ACC may require location and screening of Permitted Antennas in order to minimize obtrusiveness as viewed from streets and adjacent property and may require that Permitted Antennas be painted or colored to blend into the surrounding structures.

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

(q) Landscaping. Landscaping may include but shall not be limited to the preparation for the planting of lawn, grass (artificial grass is permitted) or other appropriate ground cover, and appropriate shrubbery.

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

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

(t) Easements. Easements for installation and maintenance of utilities, drainage facilities and ingress and egress are reserved as shown upon the Plat. Within these easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow or drainage channels in the easements or which may impede ingress and egress. The easement area of each Lot and all improvements in it shall be maintained continuously by the Lot Owner, except for those improvements for which a public authority or utility company is responsible.

(u) Signs; Commercial Activity. Except for one "For Rent" or "For Sale" sign, no advertising signs, billboards, objects of unsightly appearance, or nuisances shall be erected, placed, or permitted to remain on any Lot or any portion of the Property. The foregoing restrictions shall not apply to the commercial activities, signs and billboards, if any, of the Declarant or its agents during the Development Phase.

3.4. Construction and Contractor Provisions.

(a) Completion of Construction. The construction of any building on any portion of the Property shall be continuously and diligently pursued from and after the commencement of such construction, and in any event shall be substantially completed within twelve (12) months after such commencement. Construction of any building on the Property shall be deemed to have commenced on the date a building permit for such building is issued by Parowan City. Construction of such building shall be deemed "completed" upon issuance of a permanent certificate of occupancy for or final inspection of the building (as applicable) by Parowan City.

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

(c) Landscaping. Front yard landscaping shall be complete within one (1) year of occupancy.

(d) Soils Test. Lot Owners are encouraged to obtain a soils test and recommendation on foundation from a Utah registered engineer prior to construction. The ACC may require that the Lot owner obtain a soils test and recommendation on foundation prior to the final approval. Furthermore, the ACC may condition final approval following the recommendations set forth in the soils test document. By approving the commencement of construction after review of any soils test and recommendation, the ACC is not warranting and shall not be deemed to have warranted the results of such test or recommendation.

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

(f) Maintenance of Lot During Construction. Contractors or subcontractors as owner/builders must provide on-site dumpsters during construction and are required to clean up the site daily to maintain a clean work site during construction and shall not leave construction material or debris in the public streets. The ACC may levy up to a Five Hundred Dollar (\$500) fine against a violator of this subsection and/or the Owner of the Lot for each day of a continuing violation. The fine shall be a charge on the land and shall be a continuing lien on the Lot.

ARTICLE 4 **ENFORCEMENT**

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

4.2. **Enforcement.** Each and all of the covenants, conditions, and restrictions contained herein are for the benefit of the Declarant and Lot Owners. Each such restrictive covenant and condition shall inure to the benefit of and pass with each and every Lot, part or portion of the Property and shall apply to and be binding upon each and every successor in interest. Said covenants, conditions, and restrictions are and shall be deemed covenants of equitable servitude, and the actual or threatened breach thereof, or the continuance of any such breach, or compliance therewith, may be enforced, enjoined, abated, or remedied by

appropriate proceedings at law or in equity by the Declarant or any Lot Owner or Owners; provided, however, that no such breach shall affect or impair the lien of any bona fide mortgage or trust deed which shall have been given in good faith and for value, except that any subsequent owner of any Lot, part or portion of the Property shall be bound and obligated by the said covenants, conditions, and restrictions, whether such ownership is obtained by foreclosure, at a trustee's sale, or otherwise.

ARTICLE 5

AMENDMENT AND EXPANSION

5.1. **Amendment by Lot Owners.** This Declaration may be amended, modified, extended, or revoked, in whole or in part, upon the written consent of no less than the Owners of sixty-seven percent (67%) of the number of Lots within the Property. Any proposed amendment shall be provided to every Lot Owner at least thirty (30) days in advance of seeking such consents. Consents must be obtained within a 180-day period thereafter. To be valid, a written consent must be signed by the record Owner(s) of the Lot consenting to the amendment and such signature(s) must be notarized in a recordable form. Any amendment, modification, termination, or revocation shall be immediately effective upon recording in the office of the Iron County Recorder a copy of such amendment, modification, termination, or revocation accompanied by the original signed and notarized consents. Notwithstanding the above, however, Lot Owners may not amend, modify, or revoke this Declaration during the Development Phase.

5.2. **Amendment by Declarant.** The Declarant may unilaterally amend, modify, extend, or revoke this Declaration, in whole or in part, during the Development Phase.

5.3. **Additional Property.** The Declarant may unilaterally subject additional property to this Declaration. The Declarant shall indicate its intent to have such property bound by this Declaration on the plat of such additional property and shall record a declaration of annexation including and subjecting such property to this Declaration. Thereafter, such additional property shall be considered as part of the Property in all respects, and lots therein shall constitute Lots under this Declaration.

ARTICLE 6

GENERAL PROVISIONS

6.1. **Duration of Covenants.** The covenants, conditions, and restrictions contained herein shall run with and bind the land for a period of fifty (50) years from the date this document is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each, subject to amendment as herein set forth.

6.2. **Notices.** Any notice required under the provisions of this document to be sent to any Lot owner shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of such owner.

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

6.4. **Assignment of Declarant's Rights.** Any and all rights and powers of the Declarant herein contained may be delegated, transferred or assigned. To be effective, any such delegation, transfer, or assignment must be in writing, signed by Declarant, indicate the extent and nature of such assignment, and be recorded in the Office of the Iron County Recorder.

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

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

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

IN WITNESS WHEREOF, the undersigned has hereunto executed this document this _____ day of _____, 2007.

DECLARANT:

CDR Homes, Inc.

By: _____

Name: David Miller

Title: President

{notary acknowledgement on following page}

EXHIBIT A
[Legal Description]