

## **First Amended Protective Covenants of BANDANNA RANCH**

Buckboard Phase, Chuckwagon Phase, Elkhorn Phase, Stagecoach Phase, and any Sequel Phases or Sub-Phases Within the Four Listed Phases Herein

County of Duchesne • State of Utah

THIS FIRST AMENDED DECLARATION is made on this \_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, by Ford's Inc., a Utah corporation, having its principal place of business in Salt Lake City, Salt Lake County, State of Utah, hereinafter referred to as "Declarant", and the Bandanna Ranch Homeowner's Association a/k/a Bandanna Ranch Landowner's Association, by and through its Board of Trustees, hereinafter referred to as the "Board".

WHEREAS, Declarant (Ford's Inc.) has sold, disposed of and conveyed lots in Bandanna Ranch and the various phases and sub-phases known as Buckboard, Chuckwagon, Elkhorn and Stagecoach, and has heretofore filed Protective Covenants upon lots within those phases and sub-phases for the mutual benefit and protection of the present owners and future owners thereof. In an effort to more fully serve the needs of present and future landowners, and for the mutual benefit and protection of the present owners and future owners thereof, Declarant desires to amend and make more uniform all of the Protective Covenants on the various phases heretofore filed, and to make these "First Amended Protective Covenants" the protective covenants, conditions and restrictions governing all lots within the boundaries of Bandanna Ranch, and specifically the Buckboard, Chuckwagon, Elkhorn and Stagecoach Phases, and any sub-phases or sequel phases thereof.

WHEREAS, a non-profit corporation known as Bandanna Ranch Homeowner's Association, hereinafter the "Association", has been organized and qualified under the laws of the State of Utah.

WHEREAS, the Association, by and through the Board, have been considering, for a substantial period of time the requests, concerns, objections, complaints, questions, etc., of numerous Members regarding the management of Bandanna Ranch and the Association, and various aspects relative thereto.

WHEREAS, it has become apparent that numerous Members and landowners and their guests have, to some extent, exhibited disregard of the Protective Covenants, while others have expressed some concern regarding the interpretation of the Protective Covenants, the incongruity between phases, and the apparent disparity between the covenants, conditions and restrictions in the various phases as it relates to the overall Ranch and its development.

NOW THEREFORE, know all men by these presents: That Declarant hereby certifies and declares that it has established and does hereby establish a general plan for the protection, maintenance, development and improvement of said property; and that it is designed for the mutual benefit of the lots on said property and Declarant has fixed and does hereby fix the covenants upon the subject property to which all lots, parcels and portions of such subdivision shall be held, leased or sold and/or conveyed by them as such owners, each and all of which is and are for the mutual benefit of the lots in said property and of each owner thereof. and shall run with the land and shall inure, to and pass with said property and each and every lot and parcel of land therein, and shall apply

to and bind the respective successors in interests thereof, and are each thereof imposed upon the lots as a mutual, equitable servitude in favor of each and every parcel of land therein dominant tenement or tenements.

## **ARTICLE I**

### **Definitions**

The following terms used in these covenants, conditions and restrictions shall be applicable to this Declaration, Article I hereof, and are defined as follows:

**Section 1:** "Association" shall mean and refer to the Bandanna Ranch Landowner's Association, formerly known as the Bandanna Ranch Homeowner's Association, a non-profit corporation, incorporated under the laws of the State of Utah, its successors and assigns.

**Section 2:** "Board" shall mean and refer to the Board of Trustees elected and/or appointed consistent with the By-Laws of the Bandanna Ranch Homeowner's Association, also known as the Bandanna Ranch Landowners Association,

**Section 3:** "Lot" shall mean any parcel of property shown as a separate numbered Lot on the recorded plat of the subdivision, recorded plat of any phase of the subdivision or any phase of Bandanna Ranch, in its entirety, with the exception of those lots which have opted out of the Bandanna Ranch Homeowner's Association by virtue of being adjacent to Duchesne County road.

**Section 4:** "Member" shall mean and refer to every person or entity who holds membership in the Association.

**Section 5:** "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the properties, including contract sellers and buyers, but excluding those having such interest merely as security for the performance of an obligation.

**Section 6:** "Declarant" shall mean and refer to Ford's Inc.. its successors and assigns and, where applicable, the Bandanna Ranch Homeowner's Association a/k/a Bandanna Ranch Landowner's Association.

**Section 7:** "Deed of Trust" shall mean the conveyance of any LOT or other portion of the property to secure the performance of an obligation.

**Section 8:** "Conveyance" shall mean and refer to conveyance of a fee simple title to any Lot.

**Section 9:** "Properties" shall mean and refer to that certain Real Property hereinbefore described and such additions thereto as hereafter may be made subject to this Declaration, and excluding any Real Property that hereafter may be withdrawn from this subdivision pursuant to this Declaration.

**Section 10:** "Subdivision" or Bandanna Ranch shall mean and refer to Bandanna Ranch in its entirety, the Buckboard Phase and each and every phase there under, the Chuckwagon Phase and each and every sub-phase or sequel phase there under, the Elkhorn Phase and each and every phase there under, and the Stagecoach Phase and each and every sub-phase or sequel phase there under, according to the official plat thereof

recorded in the office of the County Recorder of Duchesne County, State of Utah, and any subdivision hereafter added pursuant to the terms of this Declaration.

## **ARTICLE II**

### **Membership**

**Section 1: Membership:** Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association shall be a Member of the Association. The terms and provisions set forth in this Declaration, which are binding upon all owners of all Lots and all Members in the Association, are not exclusive, as a Member shall, in addition, be subject to the terms and provisions of the Articles of Incorporation, any amendments thereto, and By-Laws 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, No owner shall have more than one membership for each Lot owned. Membership shall be appurtenant to and may not be separate from the ownership of any Lot which is subject to assessments by the Association. Ownership of such Lot shall be the sole qualification for membership.

**Section 2: Voting Rights:** Each Member shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership by Section 1. When more than one person holds such interest in any Lot, all 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 (1) vote be cast with respect to any Lot. All voting rights shall be subject to the restrictions and limitations provided herein and in the Articles and By-Laws of the Association.

## **ARTICLE III**

### **Covenant for Maintenance Assessments**

Every person who shall become a legal or equitable owner of any Lot in the subdivision by any means is, by the act of acquiring such title, or by the act of contracting to acquire such title, held to have agreed to pay the Association all charges that the Association may make in accordance with these covenants, its Articles of Incorporation and By-Laws. If such payment is not made when due, it shall bear interest from the date due until paid at the rate of 2% per month. Payments are considered to be delinquent if not paid within thirty (30) days of the due date. The Association may file notice that it is the owner of a lien to secure payment of the unpaid charges plus costs and reasonable attorney fees; which lien shall encumber the Lot or Lots of a delinquent owner and may be foreclosed in accordance with the laws of the State of Utah. The Association may also sue to collect delinquent or unpaid assessments without necessarily filing a lien and/or without foreclosing a lien against the property. The Association may obtain a judgment personally against the landowner for unpaid dues and assessments, and may sue to collect the unpaid dues and assessments in Duchesne County or in any other County or State wherein the delinquent landowner may be found and/or served. Any judgments for

unpaid and delinquent dues and assessments may be docketed in any County in which the delinquent landowner holds property, just as any other judgment within the State of Utah may be docketed and/or perfected. The Association shall have all the powers that are set out in its Articles of Incorporation and all powers that belong to it by operating law, including but not limited to the power to assess and collect on every Lot uniform charges as determined by the Board of Governors for the purpose set forth in the Articles of Incorporation. Any funds accumulated as a result of the charges levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the members of the Association and in particular to provide maintenance of roadways, gates, culverts and to administer other necessary business of the Association. The lien of any mortgage or Deed of Trust placed upon any Lot for the purpose of permanent financing and/or constructing a residence or other improvement thereon, shall be superior to any such lien as provided for in these covenants. The Association shall be entitled to collect from any landowner whose assessments and dues become delinquent, the reasonable cost of collection, with or without suit, including but not limited to attorney fees, postage, court costs, title reports, costs of posting notice, publication costs, or any other reasonable cost associated with enforcement of the provisions hereof or incurred in collecting past-due or delinquent dues and assessments.

## **ARTICLE IV**

### **Architectural Committee**

**Section 1: Appointment of Committee.** Declarant shall appoint the Architectural Committee consisting of not less than three (3) Members for an indefinite term, At such time as the Association is turned over to the property owners. the selection of the Committee will be the responsibility of the Board.

**Section 2: Building Time Restrictions.** The exterior construction of all buildings and/or structures shall be completed within one (1) year following commencement of construction of that particular building or structure. For purposes of this Declaration, commencement of construction shall be considered to occur on the date the foundation of the structure or building is complete, regardless of the nature of the foundation, or in the case of construction where there is no foundation. as soon as "piers" or girders are laid. Additions to existing structures must be completed within one (1) year from the time the written application along with the representative drawings and plans are approved by the Architectural Committee. Extensions, modifications and/or expansions of any existing trailer or mobile home shall be submitted to the Committee for approval. Time extensions may be granted by the Architectural Committee upon showing of good cause and subject to condition as the Architectural Committee may impose. No extension shall be granted on more than one additional year, To the extent Member does not agree with the Architectural Committee's decision, Member may petition the Board directly for review of such opinion or decision. Final decisions shall be made by the Board,

**Section 3: Approval by Architectural Committee.** No building, fence, wall or any other structure shall be commenced, erected or maintained upon the properties, nor shall any exterior addition to or change or alteration therein be made, nor shall any excavation, road grading, alteration of any stream or clearing, removal of shrubs or trees or any other

natural landscaping on any Lot within the Properties be done unless a written application along with representative drawings and plans are submitted for approval of such improvement or improvements to the Architectural Committee\_ The installation of overhead power lines does not require written application, The installation of underground water lines and/or underground power lines do require written application, together with representative drawings and plans, unless such installation of an underground line can be accomplished within the confines and boundaries of existing roads.

**Section 4: Committee Discretion.** The Architectural Committee shall not give its consent to the proposed improvement unless, in the opinion of the committee, the improvements are properly designed and the design, contour, materials, shades, colors and general character of the improvement shall be in harmony with existing structures on the Lot and on neighboring Lots, and in harmony with the surrounding landscape, and the improvements shall be designed and located upon the Lot so as to minimize the disruption to the natural land forms and vegetation cover, Approval shall be by two (2) signatures and/or agreement of at least two members of the Committee.

The Architectural Committee shall, within ten (10) days after they have received a written application along with the representative drawings and plans, render a decision. The decision shall either be an approval of the application, drawings and plans; shall be a rejection of the application, drawings and plans, together with a brief explanation; or shall be a conditional approval of the application, drawings and plans, specifying the conditions which must be met in order for approval to be complete. To the extent Member does not agree with the Architectural Committee's decision, Member may petition the Board directly for review of such opinion or decision. Final decisions shall be made by the Board,

**Section 5: Appointment of Architectural Committee.** The Architectural Committee shall consist of at least three (3) but not more than (5) Members, which shall be initially appointed by Declarant. Members of the Architectural Committee shall serve for a period of three (3) years, In the event of resignation by any Architectural Committee member, a new member shall be appointed by the Board to serve for a period of three (3) years from the date of appointment. In the event of a vacancy and plans are submitted to the Committee, the remaining members of the Committee may make a decision and either approve, disapprove or conditionally approve the applications referred to above, unless and until a replacement member is appointed by the Board.

## **ARTICLE V**

### **Use Restrictions**

The general objectives and intent of these covenants\_ restrictions and conditions is to create and maintain a recreational or residential district characterized by the following: Private drives or roadways, attractive residences, minimum vehicular traffic and quiet recreational conditions favorable to Lot owners' enjoyment.

**Section 1: Zoning Regulations.** The lands within the properties shall never be occupied by or used for any building or purpose or in any manner which is contrary to the

zoning regulations applicable thereto. Anything contained herein, notwithstanding, shall be subject to any and all zoning regulations applicable hereto.

**Section 2: Land Use.** No Lot shall be used for any purpose other than residential and recreational purposes.

**Section 3: Building Location.** No building shall be located on any Lot nearer than thirty (30) feet to the front Lot line or nearer than thirty (30) feet to the rear Lot line, nor nearer than ten (10) feet to any side Lot line. No structure providing overhead shelter or enclosure for maintaining livestock as otherwise allowed herein shall be constructed closer than thirty (30) feet from the front property line and ten (10) feet from the side Lot lines. Other uninhabited structures, such as garages, sheds, carports or permanent canopies, shall not be constructed closer than thirty (30) feet from the front line, nor closer than ten (10) feet from the side Lot.

**Section 4: Building Requirements.** No single-family dwelling or other structure or any addition or modification thereto shall be erected or constructed without securing the approval and permits of local and/or state agencies, Those agencies include but are not limited to the following:

- A. Duchesne County Building Department
- B. Utah State Health Department
- C. Utah State Division of Water Resources.

**Section 5: Dwelling Construction and Fence Restrictions.** In order to promote a harmonious community development and protect the character of the area, the following guidelines are set out.

A. Exterior construction materials will be limited to stone, stone veneer, brick or brick veneer, wood siding, stucco or aluminum and shall be in earth tones indigenous to the area, No reflective Finish other than glass shall be used on exterior surfaces, other than surfaces of hardware fixtures. including but not limited to the exterior surfaces of any of the following; Roofs, all projections above roofs, retaining walls, doors, trim, fences, pipes, equipment, mailboxes and newspaper tubes. By way of illustration and not by way of limitation, the following colors are considered inappropriate for any construction, dwelling, fence, gate, etc.: blue, purple, pink or any florescent colors. Red is an acceptable color in most circumstances. Silver, stainless steel or raw metal is inappropriate for the exterior construction or as a color for any dwelling, building, shed, structure, etc. Silver may be appropriate for gates and entry ways, subject to approval by the Architectural Committee. To the extent Member does not agree with the Architectural Committee's decision, Member may petition the Board directly for review of such opinion or decision. Final decisions shall be made by the Board.

B. Location of all garbage and refuse containers, air conditioning equipment, clothes drying lines, and utility pipes. etc., must be placed at the rear of the dwelling and located on the site in such a manner as not to be conspicuous from the frontage street.

C. Fences Or Walls in the front of the Lots shall be of wood or brick or stone. No fence or walls of chain link, wire mesh or concrete block shall be allowed except in back yards. Fences, walls or hedges shall not exceed four (4) feet. All fences, walls. etc., shall be constructed in such a way as not to impede the flow, migration Or travel patterns of any and all wildlife in, on or coming onto the subdivision.

D. A mobile home, as defined by Utah Code Ann. § 41-1a-102(30), may not be brought onto the property and used as a structure. Manufactured homes, as defined by Utah Code Ann. § 41-1a-102(28), are permissible as a residence or any other structure. Manufactured homes should be constructed on a permanent foundation and being at least 24 feet by 24 feet. Existing mobile homes on Lots located in every phase of Bandanna Ranch, with the exception of the Stagecoach Phase, may remain. Any modification, improvements or expansion of existing mobile homes should be done with the express written consent of the Architectural Committee, and such approval shall be sought in the method and manner outlined above. No new mobile homes may be brought onto the property to replace existing mobile homes, except that a manufactured home on a permanent foundation may be brought in to replace an existing mobile home.

E. Travel trailers, motor homes and recreational vehicles, as defined in Utah Code Ann, § 41-20-1(5), (6) and (7), (hereafter collectively referred to as "trailers") will be allowed, but only on a temporary basis. The trailers must be in good condition and of a color or color-combination as compatible with the existing surroundings, or as otherwise approved by the Architectural Committee. Trailers, as defined herein, are not to become permanent fixtures or dwellings on the property and are not to be permanently attached to power, water or septic tanks. If it is determined that a trailer does not meet the requirements hereunder, the Board may issue notice to Member that such trailer does not meet the requirements hereof, and Member will then have sixty (60) days to either remove the trailer or bring it into conformity with the provisions hereof.

**Section 6: Nuisances.** No noxious or offensive activity shall be carried upon any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood.

The result of every act or omission whereby any provision, condition, restriction, covenant or reservation contained in this Declaration is violated in whole or in part, it is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against such result and may be exercised by Declarant, the Board, the Association, a majority of the Association owners or any individual Lot owner. Such remedies shall be deemed cumulative and not exclusive.

**Section 7: Overnight Parking and Storage of Vehicles.** No vehicle of any kind, including but not limited to automobiles, trucks, buses, tractors, trailers, camping vehicles, boats, boat trailers, snowmobiles, mobile homes, two and three-wheeled vehicles, or any other wheeled vehicles shall be permitted to be parked on any street within the subdivision projects.

The storage of any automobiles, trucks, buses, tractors, trailers, boats, boat trailers, snowmobiles, two and three-wheeled vehicles shall be kept from view of the general public and/or vehicular circulation where practical.

**Section 8: Livestock.** Animals on a single family lot shall be restricted to two (2) horses, two (2) cows, two (2) sheep, or any combination of the above but not to exceed the total of the above. No more than two (2) dogs can be kept on the property nor shall the dogs be kept for breeding purposes. The above animals shall be confined in an enclosure so that the open part of any lot retains a reasonable amount of vegetation cover. Individual owners will be responsible to control their lots so that dust and odor do not become a problem to the property owners.

**Section 9: Signs:** No commercial signs of any kind shall be displayed to public view on any Lot except legal notices or signs advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sale. Any signs advertising a Lot for sale shall be standard real estate sales signs approved by the Utah Board of Realtors. Anything to the contrary notwithstanding, any Member may display a personalized sign indicating the Member or owner's name of the property or the name by which the owner has decided to designate the property. By way of example only and not by way of limitation: 'Smith's Hideaway', "The Jones Retreat", "The Smith Ranch", "The Smiths". etc., would be acceptable designations.

**Section 10: Garbage and Refuse Disposal:** No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. Such trash, rubbish, garbage or other waste shall not be kept except in sanitary containers. No rubbish, trash, papers, junk or debris shall be burned upon any Lot except that trash may be burned inside homes that are properly equipped with inside incinerator units.

**Section 11: Junk.** No junk of any kind, including but not limited to motor vehicles of any kind, boats, trailers, appliances, etc., stripped down, partially wrecked or sizeable parts thereof, shall be permitted to be parked or maintained on any street, common area or Lot within the subdivision.

**Section 12: No Business Uses:** The lands within the property shall be used exclusively for single-family purposes, and shall never be occupied or used for any commercial or business purpose. Declarant (Ford's Inc.) has withdrawn several Lots and constructed an equestrian park. This equestrian park and stable is intended for the use of Members, but may be a commercial venture with all proceeds from that commercial venture derived from Members' use of such equestrian park.

**Section 13:** No Lot shall be re-subdivided and only one single-family residence shall be constructed or allowed to remain per Lot. To the extent more than one permanent single-family residence has already been constructed on any Lot, those existing structures may remain but no additional structures on a Lot containing more than one single-family dwelling may occur.

**Section 14: Maintenance of Property.** All Lots and all improvements on any Lot shall be kept and maintained by the owner thereof in a clean, safe and attractive condition and in good repair.

**Section 15: Keeping Gates Closed:** It is the duty of every Member and owner to see that the security gates are kept closed. Any owner or Member, or anyone utilizing the owner or Member's property, making improvements thereon. etc., who fails to close the gate and keep the same locked upon ingress and egress shall be considered inappropriate, and the penalty as more particularly set forth below can and will be imposed. It is the express intent of the vast majority of all Members that the Ranch be maintained as a secure place, which includes no less than having locked gates. It is intended that the failure to keep the gates locked is a severe problem and the penalty more particularly set forth below will be a progressive penalty with each subsequent violation, exacting a greater and greater penalty for violating the provisions hereof relative to locked gates.

**Section 16: Installation of Culverts:** every Member who purchases a piece of property and constructs a road on the same must install a ten (10) inch culvert where that road

meets the subdivision roadways. It is generally considered necessary to install a culvert, especially on the up-hill Lots or those Lots located up hill from the subdivision roads. The purpose of such culverts is to prevent erosion to the roads and keep down the cost of road maintenance. Any Member desiring a variance from this requirement or seeking to have a determination made that a culvert is not necessary for their particular Lot may apply to the Board for such variance,

**Section 17: No Hazardous Activities.** No activities shall be conducted on any Lot and no improvements 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 open fire shall be lighted or permitted on any Lot except in a contained barbecue unit while attended and in use for cooking purposes or within safe and well-designated fireplaces or fire pits,

**Section 13: Off-Highway Vehicles:** No automobiles, trucks, motorcycles, trail bikes, snowmobiles, four-wheel drive vehicles or vehicles of any kind shall be operated on any of Declarant's property wherever the same may be situated or any place on the subdivision other than on the public roadways or in areas specially designated and marked for off-road vehicle use. The use of off-highway vehicles, as that term is defined in Utah Code Ann. § 41-22-2(11), is strictly prohibited, except on the individual Members' Lot or with the express written consent and permission of another Member for use on that Lot. The operation of off-highway vehicles on all roads within the subdivision, except on the individual Members' Lot, shall be governed by the provisions of Utah Code Ann. § 41-22-1, et seq., and the rules and regulations set forth therein for the operation of off-highway vehicles on public property are incorporated herein and by this reference made a part hereof, and shall apply to all roads and other property within the subdivision, except a Member's individual Lot. The Member or owner of the Lot shall be responsible to see that all family members or guests utilizing the Member's property comply with the rules and regulations regarding operation of off-highway vehicles within the subdivision. The use of off-highway vehicles not in accordance with the provisions of Utah Code Ann. § 41-22-1, et seq., within the subdivision shall be considered a nuisance within the meaning of Section 6 above.

**Section 19: Speed Limit:** The speed limit within the subdivision shall be a maximum 25 miles per hour, unless otherwise listed. There are specific places where the speed limit is 15 miles per hour. No one shall operate any automobiles, trucks, motorcycles, trail bikes, snowmobiles, four-wheel drive vehicles, off-highway vehicles, or any other self-propelled vehicle of any kind in excess of 25 miles per hour within the boundary of the subdivision.

**Section 20: Hunting and Shooting:** Hunting and shooting within the boundary of the subdivision is strictly prohibited. Hunting and/or shooting fire arms is also strictly prohibited within six hundred (600) feet of any dwelling, building or other structure, and the use of any firearms within or adjacent to the subdivision must be in strict compliance with all federal, state, county and/or local statutes, rules and regulations. For purposes of this Section, hunting shall include archery hunting and any other sort of hunting within the broadest meaning of that term.

**Section 21: Horseback Riding:** Horseback riding shall be allowed within the subdivision on the public roads, but is strictly prohibited on any private property or

lots not owned by the Member riding the horse.

**Section 22: Removal of Natural Foliage:** It is the intent that all trees, shrubs, bushes or other natural foliage should not be removed except as is absolutely necessary for the ingress and egress and construction of a dwelling on the Lot. It is desirable, however, to some extent for fire protection to remove brush, weeds and low-lying plants which would otherwise aid in the spread of fire. It is necessary that as much of the natural foliage remain as possible, not only to maintain the wilderness atmosphere of the subdivision but also for soil erosion, wind control, etc. Roads should be constructed so that as little as possible of the natural foliage is removed in order to construct roads for ingress and egress and for construction of dwellings and other structures on the Lot.

**Section 23: Variances with respect to Construction:**

The Architectural Committee may, in its sole discretion, by an affirmative vote of a majority of the members of the Architectural Committee, allow reasonable variances as to any of the covenants and restrictions contained in this instrument, on such terms and conditions as it shall require. To the extent a Member applies for a variance and is unsatisfied with the Architectural Committee decision, Member may petition the Board directly for review of such opinion or decision. Final decisions shall be made by the Board.

**Section 24: Variances and Adjustments:** The Board may allow reasonable variances and adjustments of these restrictions in order to overcome practical difficulties and prevent unnecessary hardships in the application of the provisions contained herein; provided, however, that such is done in conformity with the intent and purpose hereof, and provided also that in every instance such variance or adjustment will not be materially detrimental or injurious to the other property or improvements in the vicinity, in the subdivision or of the development.

## **ARTICLE VI**

### **General Provisions**

**Section 1: Enforcement:** Declarant, the Board, any Member or owner, Duchesne County, or the State of Utah, shall have the right to enforce by any proceeding at law or in equity all restrictions, conditions, covenants, reservations, liens, charges and penalties now or hereafter imposed by the provisions of this Declaration. Should Declarant, the Board or any owner or Member seek to enforce in any proceeding, at law or in equity, any of the restrictions, conditions, covenants, reservations, liens, charges and penalties or hereinafter imposed by the Declaration shall be entitled to recover all costs and attorney fees incurred and necessitated in enforcing or attempting to enforce any restriction, condition, covenant, reservation, lien or charge hereunder, including but not limited to costs of abating any nuisances, costs of removal and disposition of motor homes or dwellings, structures, etc., in violation of the provisions hereof. Failure by the Declarant, the Board or any owner to enforce any covenants or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**Section 2: Member Responsibility:** Members shall be responsible for violation

of any of the covenants, restrictions or reservations contained herein by anyone utilizing the subdivision or subdivision property in connection with the Member's property, including family members or guests. Members shall be responsible for the actions and conduct of the persons regardless of the Members' presence at the time. It is the intent and purpose of the covenants, conditions, restrictions or reservations set forth herein to benefit all of the Members and homeowners. It is also the intent that the enforcement of the provisions hereof and compliance hereof must begin with each individual Member or owner.

**Section 3: Liquidated Damages:** In addition to any and all penalties, liabilities or restitution at law or in equity relative to enforcement of any or all of the restrictions, conditions, covenants, reservations, liens, charges and penalties now or hereinafter imposed by this Declaration, each violation or breach hereof shall, in addition, carry a penalty or fee of \$50.00 as liquidated damages, which \$50.00 is to be paid to the Association and become part of the general fund and utilized for the purposes set forth in Article II above. For any continuing violation or breach, the damages will be \$50.00 per day for each and every day a violation or non-compliance with any restrictions, conditions, covenants, reservations, liens or charge now or hereafter imposed by this Declaration continues after the Members receive notice of the violation. The initial violation will carry with it the \$50.00 damage figure. Failure to correct the violation or non-compliance after notice will be considered a continuing violation and non-compliance.

**Section 4: Notice to Members:** Notice to Members shall be deemed as properly given when mailed, postage prepaid, via regular mail to the Member or owner's address as it appears on the records of the Association. Member or owner has the obligation to timely notify the Association in writing of any change of address.

**Section 5: Term:** These Protective Covenants are to run with the land and shall be binding upon all parties and persons claiming under them so long as the Association exists from the date these Covenants are recorded and so long as the Association exists.

**Section 6: Severability:** Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

**Section 7: Amendments:** At any time while any provision, covenant, condition or restriction contained in this Declaration or amendment thereto, is in force and effect, it may be amended or repealed by the recording of a written instrument specifying the amendment or repeal, approved by owners representing 75% of the Lot owners, including vote by proxy pursuant to the provisions of the By-Laws.

**Section 8: Withdrawal of Property:** Declarant shall have the authority to withdraw any Lot or Lots from the operation of this Declaration prior to the sale of said Lot or Lots so that said Lot or Lots shall not thereafter be subject to any of the provisions of this Declaration, with the exception of the requirement to pay dues to the Association relative to the Lots so withdrawn as originally designated and described on the plats filed in the Office of the Duchesne County Recorder.

**Section 9: Limited Liability.** Neither Declarant, his agent, representative or employee of any of the above or any Member of the Board shall be liable to any party for any action or failure to act with respect to any matter pertaining to or contemplated by this Declaration.

**Section 10: Mortgage Protection Clause.** No breach of the covenants, conditions or restrictions herein contained nor the enforcement of any provision herein shall defeat or render invalid the lien or any deed of trust made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any owner whose title is derived through foreclosure or trustees sale or otherwise.

**Section 11: Singular Includes Plural.** Whenever the context of this Declaration requires same, the singular will include the plural and the masculine shall include the feminine.

IN WITNESS WHEREOF, Declarant has executed this instrument the day and year first-above written.

By:

its:

BANDANNA RANCH HOMEOWNER'S ASSOCIATION a/k/a BANDANNA RANCH LANDOWNER'S ASSOCIATION. by and through its Board of Trustees:

By: \_\_\_\_\_  
its: \_\_\_\_\_

**BANDANNA RANCH  
HOMEOWNER'S  
ASSOCIATION a/k/a  
BANDANNA RANCH  
LANDOWNER'S  
ASSOCIATION. by and through  
its Board of Trustees:**