

Ent 1204411 Bk 2039 Pg 888
Date: 19-Sep-2018 03:47 PM Fee \$45.00
Cache County, UT
Michael Gleed, Rec. - Filed By MLG
For VISIONARY HOMES

**DECLARATION OF
COVENANTS, CONDITIONS, AND
RESTRICTIONS
FOR
AMBER FIELDS SUBDIVISION
PHASES 3 AND 4**

Cache County, State of Utah

TABLE OF CONTENTS

RECITALS1
ARTICLE I. DEFINITIONS1
ARTICLE II. PROJECT DESCRIPTION3
ARTICLE III. RESERVED.3
ARTICLE IV. RESERVED3
ARTICLE V. ANIMALS3
ARTICLE VI. UTILITIES AND EASEMENTS4
ARTICLE VII. USE RESTRICTIONS AND REQUIREMENTS4
ARTICLE VIII. LANDSCAPING AND DRAINAGE.....7
ARTICLE IX. ENFORCEMENT AND NON-WAIVER.....9
ARTICLE X. SPECIAL DECLARANT RIGHTS10
ARTICLE XI. RIGHT OF ENTRY11
ARTICLE XII. MISCELLANEOUS12
CERTIFICATION14

EXHIBIT A

This DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR AMBER FIELDS SUBDIVISION PHASES 3 AND 4 ("Declaration") is made and executed this 19th day of September, 2018 by Visionary Homes 2018, LLC, a Utah limited liability company, ("Declarant") and becomes effective when recorded with the Cache County Recorder's Office.

RECITALS

Ent 1204411 Bk 2039 Pg 890

- A. Capitalized terms in this Declaration are defined in Article I.
- B. The real property situated in Cache County, Utah, described in Exhibit A, attached to and incorporated in this Declaration by reference (the "Property") is hereby submitted, together with all Residences, buildings, and improvements previously, now, or hereafter constructed on the Property, and all easements and rights appurtenant thereto, to develop the Property for single family residential use that shall be known as Amber Fields Phases 3 and 4 (the "Project").
- C. Declarant is the owner of the certain real property described in Exhibit A subject to this Declaration.
- D. Declarant intends that the Owners, Occupants, Mortgagees, and all other persons hereafter acquiring any interest in the Project shall at all times enjoy the benefits of, and shall hold their interest subject to this Declaration, which is recorded to enhance the desirability of living in the Amber Fields Subdivision and to increase and preserve the attractiveness, quality and value of the lands and improvements therein.
- E. Declarant hereby desires to establish for the mutual benefit of all future Owners and Occupants of the Project, certain covenants, conditions, restrictions, easements, rights, privileges, assessments and liens as set forth herein (collectively the "Restrictive Covenants"), which shall run with and be a burden upon the Property.
- F. Declarant explicitly reserves for itself the option in the future to expand the Project.
- G. This Declaration shall apply to the Property and to such additional real property as may be hereafter subject to this Declaration in the manner set forth below.
- H. By filing this Declaration, Declarant does not intend to create a community association, homeowners association, or any non-profit entity of any kind that would create a membership interest for the lot owners.

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.

- 1.1. **City** shall mean the City of Logan, Utah.
- 1.2. **Declarant** shall mean and refer to Visionary Homes 2018, LLC, a Utah limited liability company, or its successor in interest, as the context requires.
- 1.3. **Declaration** shall mean and refer to this Declaration of Covenants, Conditions, and Restrictions for Amber Fields Subdivision Phases 3 and 4 as the same may be amended from time to time as recorded.

1.4. **Reserved.**

1.5. **Dwelling** shall mean and refer to the detached single-family residence constructed upon a Lot.

Ent 1204411 Bk 2039 Pg 891

1.6. **Reserved.**

1.7. **Amber Fields Subdivision** shall mean and refer to the property described on Exhibit A, which is included within and is subject to the Subdivision Plats for Amber Fields Phases 3 and 4.

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

1.9. **Legal Requirements** shall mean and refer to all laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, restrictions, permits, licenses, authorizations, directions and requirements of and agreements with all governments, departments, commissions, boards, courts, authorities, agencies, officials and officers, which now or at any time hereafter may be applicable to the Project or any Lot.

1.10. **Lot** shall mean and refer to each of the individual lots within the Project, as shown on the Plat.

1.11. **Reserved.**

1.12. **Occupant** shall mean and refer to any Person, other than an Owner, visiting, living, dwelling, or staying in a Residence. This includes, but is not limited to, all lessees, tenants, and the family members, agents, and representatives visiting, living, dwelling, or staying in a Residence.

1.13. **Owner** or **Lot Owner** shall mean and refer to (1) the record owner, whether one or more Persons, including Declarant, of a fee simple title to any Lot which is a part of the Property, or (2) the purchaser of a fee simple interest in a Lot under an executor contract sale. In the event that the holder of fee simple interest in a lot or the parties acquiring title under a contract of sale shall be more than one Person, such Persons shall be required to act in unison with respect to the applicable Lot in all matters related to this Declaration and the enforcement of the provisions hereof.

1.14. **Period of Declarant Control** shall mean and refer to the first to occur of (i) the date Declarant shall no longer be an Owner of any Lot in the Project, or (ii) the date which shall be seven (7) years from the date this Declaration is recorded.

1.15. **Person** shall mean and refer to a natural individual, corporation, business entity, estate, partnership, trustee, association, joint venture, government, governmental subdivision, or agency or other legal entity with the legal right to hold title to real property.

1.16. **Plat** shall mean and refer to the official subdivision plats of Amber Fields Subdivision Phases 3 and 4 filed and recorded in the official records of the Cache County Recorder's Office.

1.17. **Project** as hereinbefore defined shall at any point in time mean, refer to Amber Fields Subdivision Phases 3 and 4 and shall include all Residences, buildings, improvements, and permanent fixtures located thereon, and all easements and rights appurtenant thereto.

1.18. **Residence** shall mean and refer to a structure which is designed and intended for use and occupancy as a single-family residence, together with all improvements located on or with respect to the Lot concerned which are used in connection with such residence.

1.19. **Restrictions** shall mean the covenants, conditions, assessments, easements, liens, and restrictions set forth in this Declaration.

Ent 1204411 Bk 2039 Pg 892

1.20. **Supplemental Declaration** shall mean and refer to a written instrument recorded in the records of the Cache County Recorder, which refers to this Declaration and which amends, modifies, or supplements this Declaration in accordance with its terms.

ARTICLE II. PROJECT DESCRIPTION

2.1 **Declaration.** Declarant hereby declares that the Property is and shall henceforth be owned, held, conveyed, encumbered, leased, improved, used, occupied, and enjoyed subject to the following covenants, condition and restrictions. These covenants, conditions and restrictions are in furtherance of, and the same shall constitute a general plan for the ownership, improvement, sale, use, and occupancy of Amber Fields Subdivision phases 3 and 4 and are also in furtherance of and designed to accomplish the desires, intentions, and purposes set forth in the recitals above. This Declaration shall run with the Project and shall inure to the benefit of and be binding upon every part thereof and every interest therein. Further, this Declaration shall inure to the benefit of, be binding upon, and be enforceable by Declarant and its successors in interest and each "Owner," as defined below.

2.2 **Name.** The Project, as submitted to the provisions of this Declaration, shall be known as the Amber Fields Subdivision phases 3 and 4. The Project is not a cooperative and is not a community association.

2.3 **Nature of the Project.** The Project is a residential single-family development consisting of 53 Lots. The improvements contained in the Project will be as set forth on the Plat. All improvements have been and shall continue to be constructed in a style and of materials architecturally compatible with the other improvements on the Project. The Lots, their locations, and approximate dimensions are indicated on the Plat. The Project is subject to refinement by Declarant, or as required by local governmental ordinances or requirements.

ARTICLE III. RESERVED.

ARTICLE IV. RESERVED

ARTICLE V. ANIMALS

5.1. **Animals and Pets.** Owners shall be bound by any applicable state, county, municipal ordinances, or any other controlling government authority relating to the keeping and breeding of animals, as the same may be amended from time to time, which are hereby adopted and incorporated as covenants to run with the land

ARTICLE VI. UTILITIES AND EASEMENTS

6.1. **Underground Utilities Required.** 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, including, without limitation, all easements shown on the Subdivision Plat. 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, except for transformers, meters and other equipment typically located on the surface of the ground within the easement. No transformer, or electric, gas, water or other meter or device of any type, or any other utility apparatus shall be located on any pole.

6.2. **Reserved.**

Ent 1204411 Bk 2039 Pg 893

6.3. **Easements Reserved by Declarant.** The Declarant hereby reserves to itself and its assigns the following easements: (a) the right to install, inspect, maintain, repair, and replace any utilities and infrastructure to serve the Project, including without limitation electricity, water, sewer, phone, communications cables, secondary water, and drainage systems for the Project and land that becomes part of the Project; (b) the right to establish and construct facilities and improvements for roads, streets, sidewalks, irrigation systems, drainage facilities, monuments, storage facilities for supplies and equipment, earth walls and other roadway supports, lights, and signage; (c) the right, but not the obligation, to inspect, monitor, test, redesign, and correct any structure, improvement, or condition that may exist on any property within the Project, including Dwellings and a perpetual non-exclusive easement of access throughout the Project reasonably necessary to exercise such right; (d) the right to revegetate and maintain the landscaping in all unimproved areas of the Project, in Declarant's judgment, to preserve and protect the Project's appearance, to control erosion, or to restore the property within the Project to its natural condition; (e) an easement to construct, operate, maintain, repair and replace the secondary water lines and facilities in the Project; (f) the right to construct and maintain offices, prefabricated structures, or other structures for administrative, sales and promotional purposes relating to the Project during the Period of Declarant Control.

6.4. **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 6.1 above.

ARTICLE VII. USE RESTRICTIONS AND REQUIREMENTS

7.1. **Residence and Lot Maintenance.** Each Owner shall be responsible to maintain, repair, and replace the Lot and all Improvements located thereupon in a clean, safe and sanitary condition with periodic painting or other maintenance as required to exterior surfaces. No Improvement upon any Lot shall be permitted to fall into disrepair. Owners shall be responsible to maintain, repair, and replace any fences located on their Lot.

7.2. **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 twelve (12) months. Further,

all debris shall be removed and Lot restored to a slightly condition within thirty (30) days. In the event that an Owner elects not to rebuild an Improvement which has been destroyed or otherwise rendered uninhabitable, then the Owner shall remove the remaining portion of such Improvements within six (6) months of the date of such damage and cause the Lot to be graded and in a safe condition.

Ent 1204411 Bk 2039 Pg 894

7.3. **Nuisances.** No resident shall create, maintain or permit a nuisance in, on or about the Project. For purposes of this Section a "nuisance" includes any behavior which annoys, disturbs or interferes with other residents and interferes with their right to the quiet and peaceful enjoyment of their property. No rubbish or debris of any kind shall be placed or permitted to accumulate upon any Lot, and no odors shall be permitted to arise there from so as to render any such Lot or any portion thereof, in the opinion of the Declarant, unsanitary, unsightly, offensive or detrimental to any other Lots or Improvements 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 Declarant offensive or detrimental to any other Lot or its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on any Lot without the prior written approval of the Declarant. A nuisance includes but is not limited to the following, which is determined in the opinion of the Declarant:

- 1) The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Lot;
- 2) The storage of any item, property or thing that will cause any Lot to appear to be in an unclean or untidy condition or that will be noxious to the senses;
- 3) The accumulation of rubbish, unsightly debris, garbage, equipment, machinery, inoperable vehicles or other things or materials so as to constitute an eyesore;
- 4) The storage of any substance, thing or material upon any Lot that will emit any foul, unpleasant or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Project;
- 5) The creation or maintenance of any noxious or offensive condition or activity in or about any Lot;
- 6) Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other residents or their guests, particularly if the police or sheriff must be called to restore order;
- 7) Maintaining any plants, animals, devices, or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature that diminishes or destroys the enjoyment of an Owner's Lot by its residents, guests, or invitees;
- 8) Too much noise in, on or about any Lot especially after 10:00 p.m. and before 7:00 a.m.;
- 9) Too much traffic in, on or about any Lot especially after 10:00 p.m. and before 7:00 a.m.;

10) All prohibited animal activity referenced in Article V.

7.4. **Lighting.** All exterior lighting and interior lights reflecting outside shall not be placed in any manner which shall cause glare or excessive light spillage on any neighboring Lot(s). Reasonable holiday lighting and decorations may only be displayed during the period starting November 1 of each year to January 15 of the next year.

7.5. **Signs.** No sign of any kind shall be displayed to the public view on any Lot provided however, the following signs may be displayed on a Lot or from a Dwelling: (a) one reasonably sized American flag on the exterior of a Dwelling consistent with the Freedom to Display the American Flag Act of 2005, the Utah Display of Flag Act, and Utah Code § 57-8a-219. American Flags, if displayed, must be displayed in accordance with United States Code Title 4, Chapter 1; (b) political signs related to a particular election for a period of 60 days before and two days after any election and political signs shall be limited to one sign per candidate or ballot measure of no more than 20 by 24 inches in size; and (c) one "for sale," "for rent," or "yard sale" sign in front of a Dwelling or Lot. All signs must be professionally painted, lettered and constructed.

Ent 1204411 Bk 2039 Pg 895

7.6. **Use of Lots and Residences.** All Lots are intended to be improved with Residences and are restricted to such use. No Lot and no Dwelling on any lot shall be used for any purpose other than for a Dwelling. However nothing in this Declaration shall prevent the rental of a Lot by the Owner thereof, for residential purposes on either a short or long-term basis subject to all the provisions of this Declaration and the requirement that all such leases shall be in writing and that a violation of any of these Restrictive Covenants shall be a default under such lease. No Lot or Residence shall be used, occupied, or altered in violation of law, so as to jeopardize the support of any other Residence, so as to create a nuisance or interfere with the rights of any Owner, or in any other way which would result in an increase in the cost of any insurance to any Owner.

7.7. **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. No open fires shall be lighted or permitted on any Lot, except as permitted by City ordinance, or except in a contained barbecue unit while attended and in use for cooking purposes, or within a safe and properly designed interior fireplace or exterior commercially constructed fire pit or container as permitted by City ordinance.

7.8. **Offensive or Unlawful Activities.** No noxious or offensive activities shall be carried on upon any Lot or Common Area, nor shall anything be done or placed on any Lot which interferes with or jeopardizes the quiet enjoyment of other Lots, Residences, or which is a source of annoyance to residents. No unlawful use shall be made of a Lot or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. No use shall be made of any Residence which shall cause the improvements within the Project or any part thereof to be uninsurable against loss by fire or other perils included in insurance contracts, or cause such insurance to be canceled or suspected, or cause any company issuing such insurance to refuse renewal thereof.

7.9. **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 natural vegetation such as dry

grasses, wild flowers, etc.), shall be taken to maintain appropriate ground cover to prevent and control erosion and dust.

7.10. **Parking**. Each Residence shall have a garage to be used for the parking of vehicles. Vehicles shall not be parked at any location within the Project, which would impair vehicular or pedestrian access, or snow removal.

7.11. **No Patio / Deck Storage**. No observable outdoor storage of any kind shall be permitted on backyard patios/decks, except for patio furniture, storage and portable barbecue grills in good condition, and other items if so approved by the Declarant. All approved items shall conform with standards set by the Declarant.

7.12. **Front Porches**. Front porches are required to be maintained in a clean and tidy fashion. Owners may have outdoor furniture on the front porch. Any outdoor furniture kept on the front porch shall be well maintained and in good condition. The Declarant, in its sole discretion, may require worn furniture or furniture that detracts from the theme of the community to be removed from the front porch. Front porches shall not be used for storage. Examples of items prohibited from being kept on front porches include, without limitation, bicycles, toys, barbecues, trash receptacles, ash trays, and anything else which appears unkempt, dirty, or detracts from the appearance of the Project.

7.13. **Window Coverings**. Every Owner of a Residence shall be obligated to ensure that window coverings are installed within the Residence within one month of purchasing or taking possession of a Residence. Furthermore, the Declarant may adopt and implement reasonable Rules pertaining to the type, color, material, etc. of window coverings. Under no circumstances shall any cardboard, blankets, paint, or tinfoil be used as window coverings in the Project.

7.14. **Subdivision of Lots**. No Lot shall be further subdivided or separated into smaller Lots or parcels by any Owner, except the Declarant upon approval from the applicable municipality.

ARTICLE VIII. LANDSCAPING AND DRAINAGE

8.1. **Reserved**.

Ent 1204411 Bk 2039 Pg 896

8.2. **Reserved**.

8.3. **Road Rights of Way**. Each Owner will maintain the area from the edge of road pavement to the front Lot line as needed to supplement City maintenance to ensure weed control, grass and vegetation height, uniform appearance, etc. Owners shall maintain the respective areas in front of their Lots free of trash, debris, etc.

8.4. **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 Declarant. 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 should not exceed historic flows. Owners shall not impede or retain water flow in any of the natural drainage gulches.

8.5. **Fencing**. The Declarant may at its discretion adopt specific guidelines, pertaining to fencing.

8.6. **Detention Basin.** The Project contains a Detention Basin as depicted on the Subdivision Plat, which services all phases (1-4) of the Amber Fields subdivision. It is intended that this Detention Basin be constructed by the Declarant but maintained by the Owners within phases 3 and 4 of the Project pursuant to Logan City and Cache County requirements and subject to the following terms:

1) **No Building Permitted.** Owners shall be prohibited from constructing any shed, fence, concrete pad, or other permanent or semi-permanent structure within the designated area of the Detention Basin. Ent 1204411 Bk 2039 Pg 897

3) **Maintenance Duty of Lot Owners.** Each Lot Owner within phases 3 and 4 shall have a duty to maintain and repair the Detention Basin. This maintenance and repair duty shall include the obligation to routinely inspect the Detention Basin. For the purpose of ensuring that the maintenance duties set forth in this Section 8.6 are followed, there shall be a "Basin Committee" comprised of up to three Owners, who shall be responsible for contracting for maintenance and repair of the Detention Basin and collecting fees from Owners to pay for the same. The original Basin Committee shall be determined by the Declarant during the Period of Declarant Control and voted on by a majority of Owners after the Period of Declarant Control.

4) **Costs of Maintenance Repair and Replacement.** The costs to maintain, repair or replace the Detention Basin shall be borne pro rata by the Lot Owners of phases 3 and 4, provided, Declarant shall not be required to pay any portion of such costs. In the event a Lot Owner owns more than one Lot, such Owner's pro-rata responsibility shall be increased according to the number of Lots owned. Notwithstanding the foregoing, if the need for repair or replacement of the Detention Basin results from an Owner's negligent or intentional acts, then the cost of repair or replacement shall be borne by the responsible Owner. To collect the cost of maintenance and repair of the Detention Basin, the Basin Committee shall provide to the Owners prior to December 31 of each year a projected budget for such maintenance and/or repairs, and shall collect payment from the Owners, who shall make payment of their share of the estimated cost within 30 days after providing the budget. In the event the actual annual costs of repair and replacement exceed or run lower than the estimate, any deficit or surplus shall be taken into account in the maintenance and repair budget the following year.

5) **Dispute Resolution.** If any dispute arises in connection with the maintenance, repair, and replacement of the Detention Basin, the following procedures shall apply:

(a) Owners shall meet in good faith and attempt to resolve such dispute amicably. In doing so, the Owner initiating a claim or dispute with another Owner(s) shall first notify the Owner(s) in writing stating plainly and concisely: (i) the nature of the claim, (ii) the basis of the claim, (iii) the proposed remedy, and that the adverse party shall have thirty (30) days to resolve the claim.

(b) In the event that the dispute is not resolved within thirty (30) days following the notice required in subsection (a) above, the dispute shall be submitted to mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute informally and confidentially. The parties will jointly appoint an acceptable mediator and share equally in the cost of such mediation. The parties in the dispute must agree

before any mediation settlement is binding. If mediation fails, then the disputing parties may proceed with any other legal remedy available, including the commencement of a legal action.

7) **Enforcement.** The restrictions, covenants, and obligations in this Section 8.6 are for the benefit of each Lot Owner in the Project and they shall inure to and pass with each and every Lot and shall run with the land and shall apply to and bind the respective successors in interest of Declarant. Each Owner by acceptance of a deed in the Project, whether or not it shall be so expressed in such deed, is deemed to have accepted all of such restrictions, covenants and obligations and agrees to contribute its proportional share of the costs to maintain, repair or replace the Detention Basin. Each Owner hereby agrees that such Detention Basin costs shall be a charge on the land and shall be a continuing lien upon the Lot of any Owner who has failed to contribute its proportional share of repair or replacement costs. The Owners within the Project shall be entitled to pursue a lien against a delinquent Owner who fails to pay its proportional share of repair or replacement costs to the fullest extent permitted by law. Each Owner's share of the repair or replacement costs shall also be the personal obligation of the person who was the Owner of such property at the time when the repair or replacement occurred. Subject to the Dispute Resolution section set forth above, each Owner shall have the right to pursue a legal action to personally recover from another delinquent Lot Owner to the fullest extent permitted by law.

Ent 1204411 Bk 2039 Pg 898

ARTICLE IX. ENFORCEMENT AND NON-WAIVER

9.1. **Right of Enforcement.** Declarant and any Owner shall have the right to enforce by proceedings at law or in equity, each provision of this Declaration against the Lot which is subject to the Declaration owned by such owner, including the right to prevent any violation of such, and the right to recover damages, attorney fees, and other sums for such violation(s). 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.

9.2. **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 such Owner's own expense, or by Declarant at the expense of the Owner of the Lot which is violation of the provisions of this Declaration, whether or not the relief sought is for negative or affirmative action. However, only Declarant and the duly authorized agent 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.

9.3. **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.

9.4. **Enforcement.** Declarant may bring any action at law or equity in any court available to it under the statutes of the State of Utah for enforcement of any provision of this Declaration.

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

9.6. **No waiver.** 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.

Ent 1204411 Bk 2039 Pg 899

ARTICLE X. SPECIAL DECLARANT RIGHTS

10.1 **Improvements.** Declarant hereby reserves the right, without obligation, to construct:

- 1) Any improvements shown on the Plat;
- 2) Any improvement on any Lot; and
- 3) Any other buildings, structures, or improvements that Declarant desires to construct in the Project, or any other real estate owned by Declarant, regardless of whether the same ever become part of the Project.

10.2 **Other Special Declarant Rights.** Special Declarant Rights are those rights reserved for the benefit of the Declarant in this Declaration and shall include, among others, and regardless of anything in the Declaration to the contrary, the following rights which shall remain in effect for the maximum period allowed by law:

- 1) the right to maintain sales offices, model Residences, and signs advertising the Project or any Residence at any location in the Project;
- 2) the right to create, amend, change, or modify any Plat, subject to necessary approvals from any applicable municipality or government agency;
- 3) the right to amend this Declaration without approval from any Lot Owner; and
- 4) unless expressly and specifically bound by a provision of the Governing Documents, Declarant shall be exempt from the provisions of the Governing Documents;

10.4. **Exercising Special Declarant Rights.** Declarant may exercise the Special Declarant Rights at any time prior to the later to occur of the date on which the Period of Declarant Control expires or the date when the Declarant relinquishes such rights in writing. Declarant may exercise its Special Declarant Rights in any order, and no assurance is given as to the order in which Declarant will exercise them. If Declarant exercises any Special Declarant Right with respect to any portion of the Project, Declarant may, but is not obligated to, exercise that Special Declarant Right with respect to any other portion of the Project. Notwithstanding anything to the contrary contained in this Declaration, Declarant may exercise any Special Declarant Right described in this Article and any other right reserved to the Declarant in this Declaration, without the consent of any of the Owners.

10.5. **Interference with Special Declarant Rights.** No Owner may take any action or adopt any Rules that interferes with or diminishes any Special Declarant right contained in this Declaration without Declarant's prior written consent. Any action taken in violation of this Article shall be null and void and have no force or effect.

10.6. **Transfer of Special Declarant Rights.** The Declarant may transfer, convey, or assign its rights created or reserved under this Declaration to any Person. Such transfer, conveyance, or assignment shall be effective upon recording in the office of the Cache County Recorder.

10.7. **Changes by Declarant.** Nothing contained in this Declaration shall be deemed to affect or limit in any way whatsoever the right of the Declarant, its successors or assigns, to sell or to change the location, design, method of construction, grade, elevation, or any other part or feature of a Lot and Residence prior to the contracting for the conveyance of the Residence to a purchaser.

Ent 1204411 Bk 2039 Pg 900

10.8. **Voting.** During the Period of Declarant Control, any matter voted upon by the Owners shall not become effective unless the matter is approved in writing by the Declarant.

10.9. **Easements Reserved to Declarant.**

1) The reservation to Declarant, its successors and assigns, of non-exclusive easements and rights of way over those strips or parcels of land designated or to be designated on the Plat as "Public Utility Easement," or otherwise designated as an easement area over any road on the Project, and over those strips of land running along the front, rear, side and other Lot lines of each Lot shown on the Plat.

2) An easement for the installation, construction, maintenance, reconstruction and repair of public and private utilities to serve the Project and the Lots therein, including but not limited to the mains, conduits, lines, meters and other facilities for water, storm sewer, sanitary sewer, gas, electric, telephone, cable television, and other public or private services or utilities deemed by Declarant necessary or advisable to provide service to any Lot, or in the area or on the area in which the same is located.

3) The Declarant reserves unto itself and its successors and assigns, the right to dedicate all of said roads, streets, alleys, rights of way, or easements and storm water management reservation, to public use all as shown on the Plat. No road, street, avenue, alley, right of way or easement shall be laid out or constructed through or across any Lot or Lots in the Project except as set forth in this Declaration, or as laid down and shown on the Plat, without the prior written approval of the Declarant.

4) Declarant further reserves unto itself and its successors and assigns, the right at or after the time of grading of any street or any part thereof for any purpose, to enter upon any abutting Lot and grade a portion of such Lot adjacent to such street, provided such grading does not materially interfere with the use or occupancy of any structure built on such Lot, but Declarant shall not be under any obligation or duty to do such grading or to maintain any slope.

ARTICLE XI. RIGHT OF ENTRY

11.1. The Declarant shall have the right at all times upon reasonable notice of at least 48 hours to enter upon or into any Lot, without trespass, and regardless of whether or not the Lot Owner or Occupant thereof is present at the time, to abate any infractions, to fulfill its responsibilities, to exercise its rights, to make repairs or correct any violation of the Declaration, and in connection therewith shall have the further right to assess all costs incurred against the Owner. Notice shall not be necessary in case of an emergency

originating in or threatening such Residence or any other part of the Project, including the sound or sight of running water in a Residence, the smell or sight of smoke in a Residence, abnormal or excessive noises; and foul smell. Owners shall be responsible for any costs incurred by the Declarant as a result of entering upon a Lot or into a Residence under this Section and shall indemnify and hold harmless the Declarant for all damages related to such entry, except for such damages resulting from recklessness or bad faith.

ARTICLE XII. MISCELLANEOUS

12.1. **Term.** The covenants, conditions, restrictions, and easements of this Declaration shall run with and bind the Project, and shall inure to the benefit of and be enforceable by the Lot Owners subject to this Declaration, their respective legal representatives, heirs, successors, and assigns from the date this Declaration is recorded until this Declaration is amended or terminated according to the provision herein. By acquiring an interest in a Lot, the party acquiring such interest consents to, and agrees to be bound by each and every provision of this Declaration. This Declaration may be extinguished by a written instrument executed and acknowledged by the Owners of at least sixty-seven percent (67%) of the Lots subject to this Declaration and recorded in the Cache County real property records.

Ent 1204411 Bk 2039 Pg 901

12.2. **Amendment.**

1) **By Declarant.** Until after the termination of the Period of Declarant Control, the Declaration and the Plat may be amended solely by the Declarant without any additional approval required. In addition, during the Period of Declarant Control no other amendment shall be valid or enforceable without the Declarant's prior written consent.

2) **By Owners.** This Declaration may be amended by the recording in the Cache County real property records of an instrument executed and acknowledged by the Owners of at least sixty-seven percent (67%) of the Lots subject to this Declaration at the time of the amendment.

3) **Common Owners.** For purposes of Sections 12.2(2) above, if more than one Person holds title to any Lot jointly or in common, 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 or approve in writing the proposed amendment, as the case may be, or the vote with respect to such Lot shall not be counted.

4) No amendment shall be effective until it is recorded, in the office of the Cache County Recorder.

12.3. **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 promoting and effectuating the fundamental concepts of the Amber Fields Subdivision phases 3 and 4 as set forth in this Declaration. This Declaration shall be construed and governed under laws of the State of Utah.

12.4. **Construction and Severability.** The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is constructed. Whenever the context so requires, the singular

shall include the plural, the plural shall include the singular, the whole shall include any party thereof, and any gender shall include the other gender. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.

12.5. **Notices.** Any notice required or permitted to be given to any Owner or according to the provisions of this Declaration shall be deemed to have been properly furnished if personally delivered or mailed, postage prepaid, to the Person who appears as an Owner in the County records at the time the notice is sent.

12.6. **Covenants to Run with Land.** This Declaration and all provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of all parties who hereafter acquire any interest in a Lot or in the Common Areas shall be subject to the terms of this Declaration and the provisions of any Rules, agreements, instruments, and determinations contemplated by this Declaration; and failure to comply with any of the foregoing shall be grounds for an action by the Declarant or an aggrieved Owner for the recovery of damages, or for injunctive relief, or both. By acquiring any interest in a Lot the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

12.7. **Effective Date.** The Declaration and any amendment hereof shall take effect upon its being filed for record in the office of the Cache County Recorder.

Ent 1204411 Bk 2039 Pg 902

CERTIFICATION

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

VISIONARY HOMES 2018, LLC
A Utah limited liability company

By: *Jeff Jackson*

Name: JEFF JACKSON

Title: MANAGING MEMBER

STATE OF UTAH)
) ss.
COUNTY OF CACHE)

On this 19th day of September, 2018, personally appeared before me Jeff Jackson, who duly acknowledged to me that the foregoing instrument was executed by Visionary Homes 2018, LLC, a Utah limited liability company.



Janet Marie Warren
Notary Public

NOTARY PUBLIC
JANET BARIE WARREN
My Commission # 897326
My Commission Expires
October 11, 2021
STATE OF ILLINOIS



EXHIBIT A

LEGAL DESCRIPTION

Amber Fields Phase 3

Part of Lot 5 and 6, Block 15, Plat "A", Logan Farm Survey located in the Section 5, Township 11 North, Range 1 East of the Salt Lake Meridian described as follows:

Beginning at the Northwest Corner of Lot 6, Block 15, Plat "A", Logan Farm Survey and running thence S88°34'45"E 99.29 feet along the north line of said Lot 6 to the Northwest Corner of Lot 38, Amber Fields, Phase 2 recorded in the Cache County Recorder's Office under Entry No. 1192497 on March 28, 2018 thence along the boundary of Amber Fields, Phase 2 the next two courses:

1) thence S 01°25'48" W 107.27 feet;

2) thence S 88°34'12" E 60.36 feet;

thence along the boundary of Amber Fields, Phase 1 recorded in the Cache County Recorder's Office under Entry No.1180305 on September 18, 2017 the next six courses:

1) thence S 01°14'22" W 97.50 feet;

2) thence S 46°20'05" W 14.12 feet;

Ent 1204411 Bk 2039 Pg 904

3) thence S 01°14'22" W 55.00 feet;

4) thence S 43°39'55" E 14.17 feet;

5) thence S 01°14'22" W 85.09 feet;

6) thence N 88°45'38" W 64.00 feet to the Northwest Corner of Lot 1, Amber Fields, Phase 1;

thence N 88°45'38" W 376.00 feet;

thence N 26°24'44" W 87.83 feet;

thence N 53°43'48" W 58.28 feet;

thence N 49°47'12" W 104.63 feet;

thence S 35°10'48" W 167.30 feet;

thence S 58°07'05" W 127.62 feet;

thence N 02°20'03" E 399.27 feet to the north line of Lot 5, Block 15, Plat "A", Logan Farm Survey;

thence S 88°33'00" E 643.21 feet along said north line to the point of beginning, containing 5.97 acres, more or less.

Amber Fields Phase 4

Part of Lot 5 and 6, Block 15, Plat "A", Logan Farm Survey located in the Section 5, Township 11 North, Range 1 East of the Salt Lake Meridian described as follows:

Beginning at the Northwest Corner of Lot 1 Amber Fields, Phase 1 recorded in the Cache County Recorder's Office under Entry No.1180305 on September 18, 2017 and running along the boundary of said Amber Fields, Phase 1 the next three courses:

1) thence S 01°14'22" W 95.05 feet;

2) thence S 02°53'20" E 55.15 feet;

3) thence S 01°13'24" W 107.50 feet;

thence

thence N 88°43'45" W 754.43 feet along the boundary of Artesian Spring Estates Subdivision recorded in the Cache County Recorder's office under Entry No. 666056 on August 26, 1997 also being the south line of Lots 5 & 6, Block 15, Plat "A", Logan Farm Survey ;

thence N 02°20'03" E 225.71 feet;
thence along the boundary of Amber Fields, Phase 3 the next six courses:
1) thence N 58°07'05" E 127.62 feet;
2) thence N 35°10'48" E 167.30 feet;
3) thence S 49°47'12" E 104.63 feet;
4) thence S 53°43'48" E 58.28 feet;
5) thence S 26°24'44" E 87.83 feet;
6) thence S 88°45'38" E 376.00 feet to the point of beginning, containing 5.08, more or less.