

**AMENDED AND RESTATED CONFLICT WAIVER, CONSENT TO REPRESENTATION, AND AGREEMENT TO INDEMNIFY, DEFEND AND HOLD HARMLESS.**

**(Streeter Lawsuit, Case No. 160500275)**

This Amended and Restated Conflict Waiver, Consent to Representation, and Agreement to Indemnify, Defend and Hold Harmless (“Agreement”) is executed by Dammeron Valley Landowners Association, Robert Allen and Alan B. Johnson (The Dammeron Valley Landowners Association, Robert Allen and Alan B. Johnson are referred to collectively hereto as the “DVLA”) and The Dammeron Corporation and Brooks Pace (The Dammeron Corporation and Brooks Pace are referred to collectively hereto as the “DC”) and hereby amends, restates and substitutes for the document titled “Conflict Waiver, Consent to Representation, and Agreement to Indemnify, Defend and Hold Harmless” entered into between the DVLA and the DC on June 28, 2016. Each of the entities set forth above may be referred to individually as a “Party” and collectively as the “Parties.”

**RECITALS**

- A. Artisan Custom Homes, LLC and Steve Streeter have brought suit against the DVLA, DC and others in the Fifth District Court, with Case No. 160500275 (the "Streeter Lawsuit").
- B. The DVLA has retained the law firm of Vial Fotheringham, SG, LLP (the “Firm”) as its general counsel and asked that the Firm defend it in the Streeter Lawsuit.
- C. Given the facts and circumstances of this case, DC has also asked the Firm to defend it in the Streeter Lawsuit.
- D. A potential conflict of interest has arisen pursuant to Rule 1.7 of the Utah Rules of Professional Conduct if the Firm were to represent the Parties in the Streeter Lawsuit.
- E. The Firm has consulted with each of the individual Parties concerning the potential conflict of interest and explained the advantages and risks involved in the Firm’s representation of all the Parties in the Streeter Lawsuit.
- F. The Parties have had the opportunity to consult independent legal counsel regarding the potential conflict or have forgone the right to do so.
- G. The Parties each desire to waive the potential conflict of interest and consent to the Firm’s representation of the Parties in the Streeter Lawsuit under the terms of this Agreement.

NOW THEREFORE, the Parties agree, acknowledge and state as follows:

- H. Acknowledgment. The Parties acknowledge that the Firm has a potential conflict of interest in representing the DVLA and DC in the Streeter Lawsuit. However, in waiving their potential conflict DC hereby agrees to hold harmless, defend, and indemnify the


DVLA against all claims brought in the Streeter Lawsuit including any and all judgments resulting from the Streeter Lawsuit - thus, effectively eliminating the potential conflict. Also, the Parties further acknowledge that the Firm reasonably believes that the Firm's representation of the Parties will not adversely affect the Firm's relationship with any of the Parties based on the fact that: (a) the Parties have a mutual interest in defending against the Streeter Lawsuit; (b) DC will indemnify, defend and hold harmless the DVLA against all claims brought against it in the Streeter Lawsuit including any and all judgments possibly resulting from the Streeter Lawsuit; and (c) the Firm has not been asked to disclose, and will not disclose, any confidential information of any of the Parties.

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- I. Consent to Representation. The Parties hereby consent to the Firm continuing to represent each of the Parties in unrelated matters and representing the Parties in relation to the Streeter Lawsuit.
- J. Preservation of Rights. The Parties acknowledge that any Party is free to terminate any representation as provided by law. In the event the Firm believes the conflict of interest is adversely affecting its representation of any of the Parties, the Firm will consult with the affected Parties and may be forced to withdraw from its representation of some or all of the Parties.
- K. Representation. The undersigned acknowledge that the Firm presently represents, or has represented, all of the Parties and/or entities affiliated with each Party on other matters. The representation by the Firm of the Parties may be considered to be a conflict of interest. The Firm has an interest in protecting and preserving the interests of all its clients and has confidential information about its clients which it cannot reveal to other parties. However, in its representation of the Parties in relation to the Streeter Lawsuit, the Firm has not been asked to disclose, and will not disclose, any confidential information of any Party related to other matters of representation.
- L. Waiver. The Parties understand the nature and extent of the conflict of interest, waive the conflict and consent to the Firm's representation of the Parties in the Streeter Lawsuit.
- M. Consultation. The Parties acknowledge that they have consulted with the Firm regarding the conflict of interest, are fully informed regarding the conflict of interest, and have had the opportunity to consult with outside counsel regarding the conflict of interest.
- N. Attorney's Fees and Costs. The Parties acknowledge that the DVLA previously contributed \$5,000 toward the attorney fees and costs incurred in connection with the Streeter Lawsuit and the Parties agree that DC will be solely responsible for any and all attorney fees and costs incurred above and beyond the amount as it relates to the joint representation of the Parties in the Streeter Lawsuit. The Parties also hereby agree that if the Parties are awarded a judgment for attorney's fees, to the extent possible, the DVLA will be reimbursed for any and all fees or costs incurred by the DVLA in defense of this case.
- O. Counterpart Execution. This Agreement may be executed in one or more counterparts,

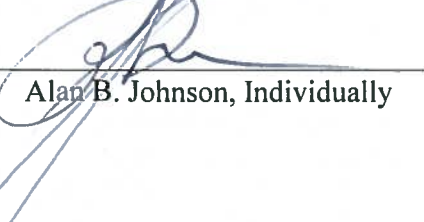
each of which will be deemed to be an original and all of which, when taken together, will be deemed to constitute one and the same instrument. Facsimile signatures and copies shall have the same force and effect as the original.

IN WITNESS WHEREOF, the parties have executed this Agreement on the 28<sup>th</sup> day of FEBRUARY 2016.


Dammeron Valley Landowners Association

By:   
Name: BRIAN TAYLOR  
President of the Dammeron Valley  
Landowners Association

By:   
Robert Allen, Individually

By:   
Alan B. Johnson, Individually

The Dammeron Corporation

By:   
Name: BROOKS PACE  
President of the Dammeron Corporation

By:   
Brooks Pace, Individually