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WHEN RECORDED MAIL TO:
CAL-UTE VENTURES, L.L.C.
261 EAST 300 SOUTH, #350
SALT LAKE CITY, UT 84111

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11/23/1999 12:52 PM 21.00
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
BONNEVILLE TITLE CO
120 S STATE SUITE C
CLEARFIELD UT 84015
BY: RDJ, DEPUTY - WI 4 P.

-TO-
WHOM IT MAY CONCERN

DECLARATION OF PROTECTIVE COVENANT
AGREEMENTS, RESTRICTIONS AND
CONDITIONS AFFECTING THE REAL
PROPERTY KNOWN AS CAL-UTE INDUSTRIAL
SUBDIVISION

Recorded November 23, 1999
Entry No.
Book Page

WHEREAS Cal-Ute Ventures, L.L.C., a Utah limited liability company, (hereinafter referred to as "Developer") is the owner of the following described real property located in Salt Lake County, Utah:

Lots 1 through 6, Cal-Ute Industrial Subdivision (hereinafter referred to as the "Subdivision"), according to the official plat thereof, recorded as Entry No. 7403305, in Book 99-7P, Page 174, in the Office of the Salt Lake County Recorder.

WHEREAS, it is the desire and intention of the Developer to sell the lots described above and to subject the lots to mutually beneficial restrictions under a general plan of improvement for the benefit of all the lots in the subdivision and the future owners of these lots;

NOW, THEREFORE, the Developer hereby declares that all of the lots described above are held and shall be held, conveyed, hypothecated, or encumbered, leased, rented, used, occupied and improved subject to the following covenants and conditions, all of which are declared and agreed to be in furtherance of a plan for improvement and sale of the lots described above and are established and agreed upon for the purpose of enhancing and protecting the value, desirability, and attractiveness of the lots. All of the covenants and conditions shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in the above described lots or any part hereof.

1. LAND USE AND BUILDING TYPE. Each lot referenced above shall be reserved for new construction of industrial buildings, for uses permitted by the applicable zoning ordinance of Salt Lake City, in its present form, or as subsequently amended. No pre-existing structure of any kind shall be moved from any other location and placed upon said lots without the express written consent of the Committee. Construction of a new building shall be completed within one (1) year from the date construction commences, unless a waiver of this requirement is approved in writing by the Committee.

2. ARCHITECTURAL CONTROL COMMITTEE. The Cal-Ute Architectural Control Committee (hereinafter referred to as the "Committee") shall consist of three members to be selected by the Developer. Any communication to the Committee shall be addressed to: Cal-Ute Architectural Control Committee, 261 East 300 South, Suite 350, Salt Lake City, UT 84111, unless the address is changed by written notice to the lot owners from the Developer or the Committee. Upon failure of the Developer to fill any vacancies in the Committee, the remaining members of the Committee may do so by a majority vote of their number. The Developer may, at its sole discretion, remove members from the Committee and fill vacancies. Said rights of appointment and removal shall, however, be subject to the right of the then record owners of a majority of the lots, through a duly recorded written instrument to change any membership of the Committee or to withdraw from the Committee or restore to its power and duties, except that the Committee shall always have one member selected by the Developer, if the Developer desires. A majority

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of the Committee may designate a representative to act for it. Neither the members of the Committee nor its designated representative shall be entitled to any compensation for services performed under this declaration.

The Committee's approval or disapproval required in this Declaration of Covenants and Conditions shall be in writing. In the event that the Committee, or its designated representative, fails to approve or disapprove plans and specifications within 30 days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced before the completion, approval shall not be required and related covenants shall be deemed to have been fully met.

As of the date of this Declaration, the Architectural Control Committee shall be composed of Howard Kent, Jay Murphy, and Jeff McComas.

3. **ARCHITECTURAL CONTROL.** No building or structure shall be erected, placed, or altered on any lot until two (2) sets of construction plans and specifications with an attached plot plan, showing the location of the building and other improvements, have been approved by the Developer as to quality of workmanship and materials, harmony of exterior design with the intent of these Covenants, existing structures, and location with respect to topography and finished grade elevation. An approval letter shall be issued to the lot owner together with one set of the construction plans. The second set of construction plans shall be held by the Developer until completion of construction and occupancy, at which time the plans shall be returned to the lot owner.

4. **EASEMENTS.** Easements for drainage, storm water retention, and/or installation and maintenance of utilities are reserved as shown on the recorded 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 or maintenance of utilities and free flow of storm water. The easement areas on each lot and public right of way areas between the curb and front lot line of each lot shall be landscaped and maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible. Each lot owner will be responsible for installing and maintaining a 24" rolled concrete waterway in the flow line of the drainage easement (swale) as shown on the standard street section grading and drainage plan for Cal-Ute Industrial Subdivision.

5. **COMMON AREA MAINTENANCE.** Lot owners will share the cost of maintaining the area within the two retention basin easements, fronting 700 South Street, including any sprinkling system and landscaping that may be installed. Each lot owner's share of said expense shall be 16.67% of the total cost for watering, landscape maintenance, and maintenance of any sprinkling system installed in this area. A separate water meter is installed by the Developer on the southeast corner of 5300 West and 700 South for the sole purpose of providing adequate water supply to sustain landscaping for the two detention basins. A maintenance contract will be obtained by bid and approved annually by the majority of the lot owners. No individual lot owner will be permitted to utilize water from this system.

6. **ZONING RESTRICTIONS.** The applicable zoning designation and code regulations affecting the subdivision will control in all issues of building setback requirements, building height, and building size and coverage ratios. At the time these covenants are established, the zoning governing the use of the lots within Cal-Ute Industrial Subdivision is M-1, "Light Manufacturing District", Salt Lake City zoning code.

7. **BUILDING DESIGN AND MATERIALS.** Buildings may be constructed of concrete panels, concrete block, brick, or metal, or combinations of these materials. The metal building design will include a minimum of a 4' external masonry wainscot on the building's front elevation. Use of corrugated metal and/or Quonset building design shall not be permitted unless specifically approved in writing by the Committee.

8. **FENCING.** Fences shall be constructed to comply with applicable ordinances of Salt Lake City. Chain link fence is permitted. No fencing shall be erected within or crossing the drainage swale.

9. **CONSTRUCTION DEBRIS.** All lot owners shall properly maintain their lot during the construction period to ensure that no debris from construction or any other materials are permitted to be placed on any other lot or public right of way within the subdivision. Lot owners shall take whatever

action is necessary to prevent run-off and resultant erosion of adjoining public or private property. Lot owners agree that the undersigned or the Committee shall be empowered to clean up any and all debris and or miscellaneous construction materials which are located upon any adjoining public or private property resulting from activities of a lot owner, their builder, or any other person employed or otherwise controlled by the owner, and record a mechanic's lien against the offending owner's property to secure the repayment of all sums expended by said Committee or the undersigned in accomplishing said cleanup from adjoining property and/or public right of way, if same is not voluntarily removed by owner within 48 hours of written notice from the undersigned or said Committee identifying the required clean up work.

10. **LANDSCAPING.** The front and side yard areas (if applicable) of each lot must be landscaped within six (6) months from the time the building is occupied, or as required by Salt Lake City, if a more restrictive time frame is specified. Owners are encouraged to take maximum advantage in the use of native vegetation and/or other drought resistant plants that can be sustained by natural precipitation. The use of vegetation requiring extensive amounts of water is discouraged.

11. **DRAINAGE.** No lot shall be graded and no structure or other obstacle shall be erected, placed, or permitted to remain thereon in such a way as to interfere with the established drainage pattern over the lot to and from adjoining land, or in the event it becomes necessary to change the established drainage over a lot, adequate provision shall be made for proper drainage. Any fence or wall erected along the side or rear property line of any lot shall contain "weep holes" or shall be otherwise constructed so as not to prevent the flow of surface water from adjoining land where such flow is in accord with the established drainage. The slope control areas of each lot and all improvements in them shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

12. **NUISANCES.** No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which may be or may become an annoyance to adjoining property owners.

13. **SIGNS.** All signs within the Subdivision shall be erected in conformance with local ordinance.

14. **STORAGE.** Open storage of materials and/or equipment shall conform to the regulations of the applicable zoning ordinance. Storage areas shall be limited to the side and rear of the building's front elevation.

15. **GARBAGE AND REFUSE DISPOSAL.** No lot shall be used or maintained as a dumping ground for rubbish. Each lot owner will be responsible to contract with a waste disposal company for a refuse container, which will be kept in an enclosed area.

16. **EXCAVATIONS AND COMPLETING IMPROVEMENTS.** No excavation shall be made on any lot except in connection with the erection, alteration, or repair of a dwelling or other improvement thereon. When excavation or the erection, alteration, or repair of a structure or other improvements has once begun, the work must be executed diligently and completed within twelve (12) months from date of commencement.

17. **COMPLIANCE WITH SALT LAKE CITY ZONING.** All buildings and related structures within the Subdivision shall be placed and used upon said lots in accordance with the present provisions of the Salt Lake City zoning ordinances relating to its current zoning or as the same may be hereinafter amended, unless otherwise modified or restricted by the Covenants herein.

18. **TERM OF RESTRICTIONS.** These restrictions are to run with the land permanently except that they may be changed, canceled, added to, or otherwise amended, in whole or in part, by a duly recorded instrument signed by the then owners of record of a majority of the lots.

19. **ACCEPTANCE OF THESE RESTRICTIVE COVENANTS.** All purchasers of the lots described herein shall, by acceptance of contracts or deeds for any lot or lots, thereby be conclusively deemed to have consented and agreed to all restrictions, conditions, covenants, and agreements set forth herein and to any amendment made in accordance with Section 18, above.

20. **CONDITION OF BUILDINGS.** No improvement upon any lot within the Subdivision shall be permitted to fall into disrepair, and each such improvement shall at all times be kept in good condition and repair and adequately maintained by the owner thereof.

21. **ENFORCEMENT.** The lot owners hereby agree that the Committee may institute in its own name, any suit or suits necessary in order to obtain a decree for specific performance or any restraining order necessary under these agreements. Should any suit be instituted, the affected lot owner or owners agree that if the court finds in the Committee's favor, such lot owner or owners shall pay reasonable attorney's fees for the plaintiff's attorney as such fees may be fixed by the court. The result of every action or omission whereby any restriction, condition, covenant, or agreement is violated, in whole or in part, is hereby declared to be and shall constitute a nuisance, and every remedy allowed by law against a nuisance, either public or private, shall be applicable against such result. Such remedy shall be deemed cumulative and not exclusive.

22. **EFFECT OF WAIVER OR BREACH OR FAILURE TO ENFORCE.** Each and all of the covenants, conditions, restrictions, and agreements contained herein shall be deemed and construed to be continuing, and the extinguishment of any right of re-entry or reversion for any breach shall not impair or affect any of the covenants, conditions, restrictions, or agreements, so far as any future or other breach is concerned. It is understood and agreed by and between the parties hereto that no waiver of a breach of any of the covenants, conditions, restrictions, and agreements herein contained shall be construed to be a waiver of any other breach of the same, or other covenants, conditions, restrictions, and agreements; nor shall failure to enforce any one of such restrictions, either by forfeiture or otherwise, be construed as a waiver of any other restrictions or conditions.

23. **SEVERABILITY.** Invalidation of any one of these covenants by judgement or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

THIS DECLARATION is made this 22nd day of November, 1999.

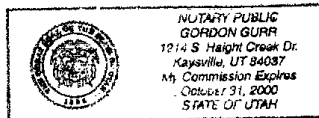
CAL-UTE VENTURES, L.L.C., a Utah limited liability company

By: Howard Kent
SLI COMMERCIAL REAL ESTATE, Managing Member
Howard Kent, President

STATE OF UTAH)
 :§
COUNTY OF DAVIS)

On the 22nd day of November, 1999, personally appeared before me, the undersigned notary, Howard Kent, who being duly sworn, testified to me that he is the President of SLI COMMERCIAL REAL ESTATE COMPANY, the Managing Member of CAL-UTE VENTURES, L.L.C., a Utah limited liability company, and that said instrument was signed by him in behalf of said L.L.C. in behalf of said L.L.C., and that said L.L.C. executed the same.

My commission expires:
October 31, 2000



Gordon Gurr
NOTARY PUBLIC
Residing at: Kaysville, Utah