

3449144

RETURN TO: Grant MacFarlane  
c/o Van Cott Bagley  
10050 151E. SLL.

DECLARATION OF COVENANTS RUNNING WITH THE LAND

This INDENTURE made and executed this 27th day of  
May, 1980, by L. JED MORRISON (also known as LELAND J.  
MORRISON) and MARSHA MORRISON (also known as MARSHA J. K.  
MORRISON), husband and wife (herein collectively referred to as  
"Declarants").

W I T N E S S E T H:

Recitals. Declarants are the owners of certain real  
property located in Salt Lake County, State of Utah, and more  
particularly described as follows:

All of Lots 8, 9 and 10, Federal Heights Plat "D", a  
subdivision according to the official plat thereof on  
file in the Office of the County Recorder of Salt Lake  
County.

The FORT DOUGLAS-HIDDEN VALLEY COUNTRY CLUB (hereinafter referred  
to as "Fort Douglas") is the owner of certain real property  
contiguous to Declarants' property and more particularly de-  
scribed as follows:

Commencing N 89°58'03" E 1757.44 ft & N 0°01'18" E  
661.64 ft & N 89°53'03" E 865.74 ft from SE corner  
Lot 12, Blk 8, Popperton Place, N 0°01'57" W  
456.70 ft; N 89°58'03" E 450 ft; S 0°01'57" E  
456.70 ft; S 89°58'03" W 450 ft to beginning.  
4.72 acres being in S 1/2 Section 33, Township 1  
North, Range 1 East.

The aforesaid properties are hereinafter referred to as the  
"Declarants' Property" and the "Fort Douglas Property" respec-  
tively and collectively as the "Subject Property". Fort Douglas  
is a Utah nonprofit corporation. The Fort Douglas property is  
maintained for the use of its members with a club house and  
related recreational facilities, including a swimming pool and  
tennis courts. During the years 1977, 1978 and 1979, certain  
improvements were constructed on the Fort Douglas property,  
including tennis courts, retaining walls, control curbs, light-

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ing structures and an inflatable "bubble" cover over the tennis courts. The improvements have been used for the benefit of members of Fort Douglas. The Declarants constructed a residence and related improvements on their property in 1979. On or about February 26, 1979, Declarants filed a lawsuit against Fort Douglas in the District Court of Salt Lake County, State of Utah, Civil Case No. C 79-1139, alleging that the maintenance and use of the "bubble" tennis court cover by Fort Douglas is contrary to law and praying for an order directing removal of said structure. The Declarants and Fort Douglas have compromised and settled said litigation, and the said action has or will be dismissed with prejudice. The terms and conditions of the compromise and settlement are set forth in a Stipulation of even date herewith which shall be filed with the Clerk of the District Court for Salt Lake County in Civil File No. C 79-1139. (Said document is hereinafter referred to as the "Stipulation".) This Declaration is executed by the Declarants as a part of the said compromise and settlement.

NOW, THEREFORE, in consideration of the mutual covenants set forth in the Stipulation, the receipt and sufficiency whereof are hereby acknowledged, the Declarants agree as follows:

1. Release and Discharge--Consent. The Declarants hereby fully release and discharge Fort Douglas, its officers, agents and employees of and from all claims, controversies, demands, actions or causes of action presently known to exist and heretofore arising as a result of the construction and maintenance of any improvements on the Fort Douglas property, including, without limitation, the existing tennis courts, retaining walls, control curbs, lighting structures and inflatable "bubble" tennis cover heretofore constructed and maintained on the Fort Douglas property and hereby grant their consent to the continued mainten-

ance of said facilities for use on the Fort Douglas property subject however to time limitations and any other requirements set forth in the Stipulation.

2. Agreement with Respect to Use of the Fort Douglas Property. The Declarants agree that they shall not object or complain or assert a claim for damages or otherwise to any federal, state or local administrative agency or court alleging in form or substance that the construction and/or maintenance by Fort Douglas of the tennis courts and inflatable "bubble" tennis court cover and related improvements, including light structures, retaining walls and control curbs as the same have heretofore been constructed on the Fort Douglas property or any of said improvements constitutes a violation of any applicable zoning ordinance or a public or private nuisance or that the construction and/or maintenance of said improvements is otherwise contrary to law or an interference with Declarants' rights, provided, however, that Declarants reserve all rights to pursue all available legal remedies should Fort Douglas fail to abide by the terms of said Stipulation. Declarants further agree that they shall not object or complain to any federal, state or local administrative agency or court that the use and operation of the social and recreational facilities now located on the Fort Douglas property constitutes a violation of any applicable zoning ordinance or a public or private nuisance or is otherwise contrary to law or an interference with Declarants' rights, provided that the use of the facilities on the Fort Douglas property is not in violation of the Stipulation and is within the parameters of normal and reasonable use of facilities of the character involved. Declarants agree that they shall have no right or standing to assert any complaint, objection or claim contrary to their promises hereinabove set

forth and that this Agreement shall constitute a complete bar and defense to any such complaint, objection or claim filed or asserted by them, provided Fort Douglas complies with the terms of the Stipulation.

This Agreement shall not be construed as a release, discharge or waiver of any claim which may hereafter arise in favor of the Declarants and against Fort Douglas or against any user or occupant of the Fort Douglas property on account of any structural failure which may occur with respect to improvements heretofore constructed on the Fort Douglas property; with respect to improvements hereafter constructed on the Fort Douglas property; or with respect to negligence, carelessness or willful misconduct on the part of any user or occupant of the Fort Douglas property which results in injury to the Declarants.

3. Covenants Appurtenant to the Land. The Declarants acknowledge that the benefits and burdens of the consent, waivers, and promises set forth in this indenture touch and concern the lands of the respective parties and are intended to and shall be appurtenant to and run with the subject property. The obligations of this Agreement may be enforced by and against the parties hereto and their grantees, successors and assigns in ownership and by and against all subsequent owners of the subject property. In the event Declarants shall acquire ownership interests in other lots within Federal Heights Plat "D" Subdivision, such interests shall become burdened with the same consent and promises of the Declarants as herein set forth.

4. Construction. Wherever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders. The section

headings set forth herein are for convenience and reference only and are not intended to describe, interpret, define or otherwise affect the content, meaning, or intent of this Declaration or any section or provision hereof. The provisions hereof shall be deemed independent and severable, and the validity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provisions hereof.

IN WITNESS WHEREOF, the Declarants have executed this Declaration the day and year first above written.

L. Jed Morrison  
L. Jed Morrison

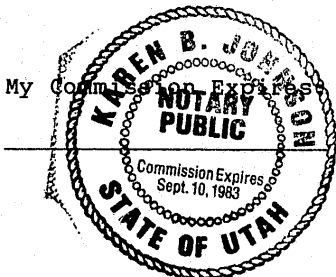
Marsha Morrison  
Marsha Morrison

FORT DOUGLAS-HIDDEN  
VALLEY COUNTRY CLUB

By J. Patrick Lee  
Its

STATE OF UTAH )  
                  ) : ss.  
COUNTY OF SALT LAKE )

On the 27<sup>th</sup> day of May, 1980, personally appeared before me L. Jed Morrison and Marsha Morrison, his wife, the signers of the foregoing Declaration who by me being each duly sworn did say that he/she executed the foregoing Declaration.



Karen B. Johnson  
Notary Public  
Residing at Salt Lake City Utah

