

WHEN RECORDED RETURN TO:

Industrial Centre Park  
P. O. Box 8513  
Calabasas, CA 91372

06/12/97 6667599 43.00  
4:48 PM  
NANCY WORKMAN  
RECORDER, SALT LAKE COUNTY, UTAH  
TITLE WEST  
REC BY: Z JOHANSON DEPUTY - WI

6667599

DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS  
FOR  
INDUSTRIAL CENTRE PARK

This Declaration made this 23 day of AUGUST, 1996, by INDUSTRIAL CENTRE PARK, LTD. (the "Declarant"), a Utah limited partnership.

WHEREAS, the Declarant is the developer of all that certain real property located in the County of Salt Lake, State of Utah, more particularly described in Exhibit "A," attached hereto and incorporated herein by reference thereto (the "Property"); and

WHEREAS, it is the desire and intention of the Declarant to develop all of the Property as an industrial park also permitting compatible commercial uses; and

WHEREAS, Declarant desires to impose upon the Property mutual and beneficial restrictions, and covenants, conditions, development standards and charges, hereinafter collectively referred to as ("Restrictions"), under a general plan of improvement for the benefit and complement of all the Property and the future Owners thereof;

NOW, THEREFORE, Declarant hereby declares that all of the Property shall be acquired, held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the following Restrictions, all of which are declared and agreed to be in furtherance of a plan for the subdivision, and/or improvements and/or sale of the Property and all of which are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and every part thereof;

The Restrictions shall become effective immediately and automatically as to each portion of the Property upon the vesting of record title to such portion of the Property in the Declarant and shall run with the Property and shall be binding on all parties having or acquiring any right, title or interest in the Property made subject hereto or any part thereof, and shall inure to the benefit of and bind each owner thereof and their respective successors in interest, and are imposed upon the Property, and each and every portion thereof as a servitude in favor of the Property and each and every portion thereof as the dominant tenement, or tenements, all as follows to-wit:

BK 7688PG2277

## A. DEFINITIONS

1. "Approving Agent" shall mean, in the following order of precedence:

(a) The Declarant, so long as it is the developer of the Property or any part thereof, owns any interest in the Property or any beneficial interest in any trust owning the Property, or is controlled by or controls any corporation, association, partnership, joint venture, trust or other organization or entity owning any interest in the Property or any beneficial interest in any trust owning the Property; or thereafter

(b) Any corporation, association, partnership, joint venture, trust or other organization or entity controlled by the Declarant or with which the Declarant has been merged or consolidated or by which the Declarant has been acquired, or as certified of record by the Declarant (hereinafter called "Declarant's Successor") so long as it owns any interest in the Property or any beneficial interest in any trust owning the Property and provided it has been granted of record by the Declarant the exclusive right to approve plans and grant variances as hereinafter set forth; or thereafter

(c) Any association (whether or not incorporated) organized by a majority of the Owners of Record of the Property or parts thereof (computed on the basis of the number of square feet of the Property owned as compared to the total number of square feet of the Property with each Owner receiving one (1) vote for each square foot of the Property owned) for the purpose, among others, of approving plans and granting variances as hereinafter provided, in which membership is available to all such Owners without charge, provided the Declarant or the Declarant's Successor has granted to it of record the exclusive right to approve plans and grant variances as hereinafter set forth which the Declarant agrees will be done by it or the Declarant's Successor before the Declarant or the Declarant's Successor ceases to own any interest in the Property if written request therefor is received prior to that time.

2. "Approval" shall mean written approval.

3. "Site" shall mean an area of land in the same ownership either shown as one lot on a recorded plan, or if not so shown, described as the Site for one or more buildings by the Owner in a recorded instrument, whether or not in either case acquired at one time or previously so shown as more than one lot, or shown or described for the purpose of lease but not of conveyance as more than one lot. If an easement or easements over any portion or portions of a Site established by recorded plat or recorded instrument then exist or exists or is or are reserved by the Declarant for any purpose whatsoever, the area of such portion or portions shall be included in computing the area of that Site. If subsequent to the establishment of a Site by recorded plat or recorded instrument, any portion or portions thereof are for railroad, street, highway, utility or public purpose taken by right of eminent domain, or deed in lieu thereof, or dedicated or conveyed pursuant to reservation by the Declarant the area of such portion or portions shall continue to be included thereafter in computing the area of the Site.

4. "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions, as it may from time to time be amended or supplemented.

5. "Restrictions" shall mean the covenants, conditions and restrictions set forth in this Declaration.

6. "Owner" shall mean the Owner of record of any Site or portion of the Property, except that the Declarant shall be deemed "Owner" of any Site or any portion of the Property owned by a corporation association, partnership, joint venture, trust or other organization or entity controlling or controlled by the Declarant.

7. "Voting Owner" shall mean the Owner designated by the Owners of Property held by two or more persons or entities as joint tenants, tenants in common, or by husband and wife as community property, which shall be considered held by one "Owner" or "Owner of Record."

#### B. RESTRICTIONS

1. No building shall be constructed upon any Site:

(a) Within twenty (25) feet from any property line; provided that, should the property line be a railroad spur the building shall be constructed not less than twenty five (25) feet from railroad spur, not including side loading docks and spurs, measured from the centerline of said spur. Parking is permitted in the set backs provided a fifteen (15) foot landscape buffer is maintained between such parking and the property lines abutting public streets.

(b) Notwithstanding any set back restriction given above, the Approving Agent may impose greater side yard and rear yard restrictions on any Site when necessary to meet the "minimum distance between buildings" requirements of the Salt Lake City, County or Uniform Building Code ("UBC");

(c) With a total aggregate building and solid screened storage area which exceeds eighty percent (80%) of the Site, nor shall the building area exceed sixty percent (60%) of the Site;

(d) With exterior walls constructed of other than tilt-up concrete, masonry or approved metal. When metal is used it must be used in connection with masonry materials.

2. There will be maintained on each Site only buildings, paved walks, paved parking lots, paved driveways, lawn and landscaping, provided that side and rear storage yards may be surfaced with gravel, the construction and/or installation of which shall be subject to the approval of the Approving Agent in accordance with the provisions of this Declaration. The surface of the required set back area from streets shall be maintained in lawns or other landscaping subject to approval of the Approving Agent in accordance with the provisions of this Declaration.

3. There shall be maintained on each Site facilities for loading and unloading sufficient to serve the business conducted thereon without using adjacent streets therefor.

4. There shall be maintained on each Site an automobile parking area or areas sufficient to accommodate fully the parking needs for the employees, customers, visitors and company vehicles of the tenant or occupant of the Site. Parking shall be prohibited in areas situated between public street pavement and a property line. No use, whether permanent or temporary, shall be made of any Site that may attract parking in excess of the parking spaces then available on such Site. No less than two percent (2%) of the automobile parking area (not including truck maneuvering area) situated on any Site shall contain landscaped islands.

5. Each Site shall be used only for those uses permitted under the applicable zoning district of The Zoning Ordinance of the City of Salt Lake City, Salt Lake County, Utah, as it may be amended or supplemented from time to time; and further all uses shall be subject to approval of the Approving Agent. There shall not be permitted any junk or salvage yards, nor any other use which will be offensive to the neighborhood by reason of odors, fumes, dust, smoke, noise, glare, heat, sound, vibration, electro-mechanical disturbances, electro-magnetic disturbances, radiation, storage or handling of hazardous waste materials, air or water pollution which are hazardous by reason of danger of fire or explosion. This provision is not intended to prohibit their use but their adverse effect on neighbors. No use of the Site shall be permitted which will result in the discharge of toxic substances into any public storm or sanitary sewer system serving the Site.

6. The exterior of all structures and all walks, driveways, lawns and landscaping on each Site shall be maintained by the Owner in good order, repair and condition; all exterior painted surfaces shall be maintained by the Owner in first-class condition and gravel areas shall be kept free of weeds.

7. Unless specifically approved in writing by the Approving Agent, no materials, supplies or equipment shall be stored in any area on a Site except inside a closed building or behind a solid visual barrier, constructed of materials acceptable to the Approving Agent, which screens such area so that the stored items are not visible to a person six (6) feet tall standing on any part of the neighboring property or public streets at an elevation no greater than the elevation of the base of the items being viewed. All roof-mounted mechanical equipment, utility installations, duct work, or any other devices, which project vertically more than one (1) foot above the roof parapet are prohibited unless screened by a solid visual barrier which is detailed consistent with the building or painted consistent with the color scheme of the building. Either method shall be first approved in writing by the Approving Agent.

8. No building or structures shall be erected, or exterior structural alterations or additions made on any Site except pursuant to plans and specifications approved in the manner hereinafter provided. The requirements of approval set forth in this paragraph are in addition to, and not in substitution for, any and all other restrictions herein contained.

9. All on-site utility transmission lines shall be placed underground.

10. No exterior signs of any type which normally would be visible from the neighboring properties or public streets shall be placed or maintained on any Site or building unless the same shall have been first approved in writing by the Approving Agent. Said approval shall not be unreasonably withheld provided that plans detailing materials, colors and

design, for the proposed sign or signs and the location of the same on the Site or buildings are submitted to the Approving Agent and provided that the design, type and location conform to any sign standards as may be then generally established by the Approving Agent, as provided in Section E, or applicable governmental regulations and in effect with respect to the Property.

### C. APPROVALS, VARIANCES AND WAIVERS

1. The Approving Agent, so long as it is the Developer or an entity controlled by the Developer, shall have the absolute and exclusive right to grant approvals required by the Restrictions and to waive or vary the Restrictions in particular respects whenever in its opinion such waiver or variance will not be detrimental to the intent and purpose of this Declaration.

2. After the Declarant ceases to be the Approving Agent the Owners of Record of the land in the Property abutting upon each Site shall have the exclusive right to grant approvals required by the Restrictions and the Owners of Record of two-thirds (2/3) area of land in the Property within five hundred (500) feet of each Site (said area to be defined by a line parallel to the boundaries of each Site and located five hundred (500) feet therefrom including public rights-of-way or easements) shall have the exclusive right to waive or vary the Restrictions in particular respects whenever in their opinion such waiver or variance will not be detrimental to the intent and purpose of this Declaration.

3. Any person having an interest in any Site may rely upon any instrument of record signed by the Approving Agent or by the appropriate Owners referred to above purporting to grant an approval or to waive or vary the Restrictions in particular respects.

4. No improvements shall be erected, placed, altered, maintained, or permitted to remain on any Site subject to this Declaration until plans and specifications showing the plot layout and all exterior, existing and final, elevations with materials and colors therefor and structural designs, signs and landscaping shall have been submitted to and approved in writing by the Approving Agent. Such plans and specifications shall be submitted in duplicate over the signature of the Owner of the Site, or his authorized agent. Nothing herein contained shall require submission to, or approval by the Approving Agent of plans and specifications relating to alterations to the interior of any existing structure.

5. Approval shall be based, among other things, on adequacy of Site dimensions, conformity and harmony of external design with neighboring structures, effect of locations and use of proposed improvements on neighboring Sites, the nature of improvements on neighboring Sites and the types of operations and uses thereon, relation of topography, grade, drainage and on Site retention and finish of ground elevation of the Site being improved to that of neighboring Sites, proper facing of main elevation with respect to nearby streets, and conformity of the plans and specifications to the purpose and general plan and intent of this Declaration. The Approving Agent shall not arbitrarily or unreasonably withhold its approval of such plans and specifications of other matters required to be approved pursuant to this paragraph C.

6. If the Approving Agent fails either to approve or disapprove such plans and specifications within thirty (30) days after the same have been submitted to it, it shall be presumed that the Approving Agent has approved said plans and specifications; provided,

however, that if within said thirty (30) day period, the Approving Agent gives written notice to the fact that one additional fifteen (15) day period is required for the examination and review of such plans and specifications, there shall be no such presumption that the same are approved until the expiration of the additional fifteen (15) day period of time set forth in said notice. In the event any plans and specifications are returned to the applicant with a requirement by the Approving Agent for resubmission due to the plans being incomplete or inadequate, each such resubmission shall be subject to a separate thirty (30) day time limitation as defined above.

7. The start of pouring of footings shall be deemed commencement of work, where applicable, and insurance of the Architect's certificate of substantial completion shall be deemed completion of work. In all cases work shall be commenced within one (1) year from the date of such approval. If there is a failure to comply with this paragraph C.7, then the approval given pursuant to this paragraph C shall be deemed revoked unless the Approving Agent upon request made prior to the expiration of said one (1) year period extend the time for commencing work. Undeveloped Sites will be maintained in a manner to prevent dust or unsightly conditions, free of excessive weeds and vegetation.

8. After commencement of the construction and alterations referred to in subparagraph C.7 above, the work shall be diligently prosecuted so that the Site shall not remain in a partly finished condition any longer than reasonably necessary for the completion thereof. With regard to excavation, and without limiting any other provision of this Declaration, no excavation shall be made on, and no sand, gravel, soil or other material shall be removed from the Site, except in connection with the construction or alteration of improvements approved in the manner set forth in this paragraph C, and upon completion of any such operations, exposed openings shall be backfilled and disturbed ground shall be graded, leveled and paved or landscaped in accordance with the previously approved plans and specifications contemplated in this paragraph C.

9. Within thirty (30) days after written demand is delivered to the Approving Agent and upon payment of a reasonable fee (not to exceed \$100.00) established by the Declarant, there shall be recorded an Estoppel Certificate executed by the Approving Agent and certifying that as of the date thereof either:

(a) All improvements made/or other work done on or within a Site complies with the requirements of this Declaration; or

(b) Such improvements or work do not so comply, in which event the Certificate shall identify the noncomplying improvements or work and set forth with particularity the cause or causes for such noncompliance. Any Owner, lessee, purchaser or encumbrancer in good faith for value shall be entitled to rely on such Certificate with respect to the matters set forth therein, such matters being conclusive as between the Approving Agent and all such subsequent parties in interest.

10. The Approving Agent shall not be liable for any damage, loss or prejudice suffered or claimed on account of:

(a) The approval or disapproval of any plans, drawings and specifications whether or not defective;

(b) The construction or performance of any work whether or not pursuant to approved plans, drawings and specifications;

(c) The development of any part of land within the Property; or

(d) The execution or filing of an Estoppel Certificate pursuant to the preceding subparagraph C.9, whether or not the facts therein are correct; provided, however, that the Approving Agent has acted in good faith on the basis of actual knowledge possessed by it.

11. A design review fee shall be paid to the Approving Agent at such time as plans and specifications are submitted for approval based on the following schedule:

(a) When the plans submitted are prepared by a registered architect, the Design Review fee shall be seventy five dollars (\$75.00) plus seventy five dollars (\$75.00) per acre or portion thereof for each Site being reviewed.

(b) In all other cases the Design Review fee shall be two hundred fifty dollars (\$250.00) plus one hundred dollars (\$100.00) per acre or portion thereof for each Site being reviewed.

(c) If time for commencement expires pursuant to paragraph C.7, above, there is a requirement by the Approving Agent of resubmission. A resubmission fee equal to one half (1/2) of the original Design Review fee must accompany each such resubmission of the same plans.

(d) The Approving Agent may equitably adjust the above fees from time to time to fairly compensate for economic changes.

#### D. LANDSCAPING GUIDELINES

1. It is the objective of the landscaping guidelines to integrate the physical architectural element with the street-scape and to visually screen undesirable elements such as storage, refuse collection and similar areas from the view of access streets and adjacent properties.

2. Individual expression, as related to the landscape design of each Site is encouraged and will be based upon a landscape concept as established by the Declarant and upon the following criteria:

(a) Landscape elements shall be of the "long-lived" variety. Short-lived materials are to be utilized only as a supplement to longer-lived elements.

(b) Landscape elements shall relate to architectural design elements and should reflect the physical, functional and aesthetic qualities of the Site.

(c) Simple palettes of material in simple compositions are recommended to achieve park-like design quality.

(d) Expansive vertical surfaces comprised of singular materials of buildings or walls shall be modulated or interrupted by foliage masses.

(e) Trees, both lines and masses, shall be utilized to enclose and subdivide exterior spaces relative to individual Sites.

(f) Complete landscape and sprinkler plans are required for plan review by the Approving Agent.

3. The front yard is considered to consist of the entire area between the face of the street curb and the building line except for permitted parking areas and drives (includes street side yards of corner lots). Front yard landscaping shall consist of the following:

(a) Street trees, lawn areas or other approved ground cover.

(b) Screening of areas utilized for parking, storage and loading from view of access streets.

(c) Where there is a street fronting the Property line, trees consistent with the landscape concept plan prepared by the Declarant.

4. All landscaped areas and materials used therein shall be kept and maintained in a healthy and weed free condition consistent with the landscaping originally approved by the Approving Agent. Dead plant material shall be replaced with plant material of equal size and maturity.

5. Any landscaping which was initially installed by the Declarant, whether on adjacent public right of way or on private property, shall be maintained by each and every subsequent Owner in manner consistent with all provisions of this Section D.

6. All vacant or undeveloped lots and expansion areas for future development shall be kept and maintained in a healthy, neat, clean, dust free and weed free condition. All detention pond facilities required by flood control plans or governmental authorities shall be kept free of weeds and debris.

7. Trees or grouping of large shrubs shall be planted adjacent to structures on the Site where needed to break up the wall lines as approved by the Approving Agent.

8. All landscaping areas shall be watered by an underground system, designed by a licensed lawn sprinkler contractor, with spray heads for lawn areas and bubblers for all



shrubbery and trees. The design of this system shall be submitted to the Approving Agent along with the landscaping design for review and approval.

#### **E. SIGN GUIDELINES**

1. Except as other wise stated herein as being more restrictive, in which event the provisions hereof shall control, all signs shall be in accordance with the Sign Ordinance of the City of Salt Lake, Utah, and any other applicable laws as they may from time to time be amended or supplemented. In addition to said Ordinance and laws, certain criteria are hereafter set forth and shall apply to all buildings development.

2. Only one (1) single faced or double faced free standing identification sign shall be permitted for each major building per street frontage for developments such as commercial buildings, office buildings and multiple tenant industrial developments; said sign shall identify the name of the building complex and/or tenants.

3. No identification ground signs shall exceed five (5) feet above grade in vertical height. This height limitation may be modified by the Approving Agent for large scale developments on Sites of five (5) acres or more. The area of one side of a double faced sign shall not exceed one half (1/2) of one square foot of sign area per each linear front foot of the building.

4. Wall signs shall not comprise more than ten percent (10%) of the area of the elevation upon which the sign is located and shall be fixture signs (signs painted directly on the surface of the wall shall be permitted). No sign shall extend above the roof or parapet wall. In the instance of a multiple tenancy building, each individual tenant may have a wall sign near their entrance to the concept established by the Approving Agent.

5. One (1) Directory wall sign listing only the names of the on Site firms or businesses will be allowed per Site. This sign shall be limited to four (4) feet in height and eight (8) feet in width. This sign shall be in addition to identification signs allowed hereunder.

6. The Sign Ordinance of Salt Lake City, Utah, shall govern and control "For Sale" or "Resale" or "For Lease" or "Rent" signs on individual Sites.

7. A proposed construction sign may identify parcels of land leased or sold to companies or businesses intending to build facilities in the Property, and may identify the facility by name and provide such information as the realtor, architect, builder, financier, etc. One (1) sign may be utilized for each Site and may exist from the time of lease or sale of the parcel until construction of the facility is completed.

8. All Signs attached to the building shall be flush mounted. Signs may be lighted but only in accordance with the Sign Ordinance of Salt Lake City, Utah, and any other applicable codes or regulations.

9. The Approving Agent shall review all requests for signs and grant a letter of approval before the installation at any time during the term of these Restrictions. Reasonable

variance to improve a project may be granted as long as it does not conflict with the Sign Ordinance of Salt Lake City, Utah, or any other applicable codes or regulations; however, variances allowed shall not obligate the Approving Agent to allow other variances in the same or similar circumstances.

#### F. REFUSE COLLECTIONS

1. All refuse shall be accumulated in an approved container provided by licensed refuse services or a public agency.

2. No refuse storage or collection area shall be permitted between a frontage street and the building setback line.

3. All outdoor refuse collection areas shall be visually screened from access streets, freeways and adjoining property by a complete opaque screen. The material and color of all such refuse screens shall be consistent with the building and be noted on the plans submitted for Design Review.

#### G. ENFORCEMENT

1. All of the Restrictions contained in this Declaration shall run with the land and shall be enforceable at law and in equity. Actions may be brought not only for damages, but to enjoin violation and for specific performance to enforce compliance with the restrictions.

2. So long as there is an Approving Agent it shall have the exclusive right to enforce the provisions hereof, without liability for failure so to do, except that each Owner of Record of land in the Property shall have the right to enforce the provisions hereof then applicable to any Site if the Approving Agent shall fail so to do within thirty (30) days after written request from any such Owner.

3. After there ceases to be an Approving Agent, each Owner of Record of Land in the Property shall have the right to enforce the restrictions then applicable to any Site without liability for failure so to do.

4.(a) In addition to the right to proceed in equity for the enforcement of the Restrictions in the event that the restrictions are violated or breached, the Approving Agent may, without liability for failure so to do, enter upon the Site (and/or the Landscaped Buffer abutting said Site, if applicable) of said violation or breach and take whatever action it may deem necessary to abate and remove nonconforming uses or to otherwise effect compliance with the restrictions at the expense of the Owner of said Site, provided that the Approving Agent shall have given to the Owner of said Site at least thirty (30) days written notice of its intention to do so and said Owner of said Site shall have failed to correct said violation or beach. In such case said Owner of said Site shall be responsible to reimburse the Approving Agent forthwith upon demand for all costs and expenses incurred in connection therewith (Noncompliance Expenses") in accordance with the provisions of this subparagraph.

(b) In order to provide for the implementation of the provision of subparagraph G.4.(a) above, each Owner of any Site within the Property by acceptance of a deed or other conveyance therefor, whether or not it shall be expressed in any such deed or other conveyance, is and shall be deemed to covenant and agree to pay to the Approving Agent an assessment for any Noncompliance Expenses incurred by the Approving Agent in connection with such Owner's Site (and/or the Landscaped Buffer abutting said Site, if applicable).

(i) The Approving Agent shall maintain accurate books and records reflecting any Noncompliance Expenses, and shall provide each Owner of an affected Site a statement with respect thereto. Each such affected Owner shall pay any Noncompliance Expenses applicable to such Owner's Site within ten (10) days following the receipt of such statement. If such statement is deposited in the United States mail in the State of Utah, duly certified or registered with postage prepaid and addressed to the Owner affected thereby at his Site, the same shall be deemed received by such Owner seventy two (72) hours after such deposit.

(ii) Any Noncompliance Expense assessments, together with such interest thereon and costs of collection thereof as provided herein including, without limitation, reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Site against which such assessments are made. The lien shall become effective upon the incurring of such Noncompliance Expenses. This assessment, together with such interest and costs, shall also be the personal obligation of the person or entity who is the owner of such Site at the time when the assessment, or any portion thereof, fell due and shall bind his heirs, devisees, personal representatives, successors and assignees. However, the personal obligation shall not pass to his successors in title unless expressly assumed by them. No Owner may waive or otherwise escape personal liability for the assessment provided herein by nonuse or abandonment of his Site.

(iii) If any Noncompliance Expenses assessment or any portion thereof is not paid within ten (10) days after the due date, it shall bear interest from the date of delinquency at the rate of one and one half percent (1 1/2%) per month and, in addition to all other legal and equitable rights or remedies, the Approving Agent may, at its option, bring an action at law against the Owner who is personally obligated to pay the same, and/or to judicially foreclose the lien against the Site in the manner provided by law for the foreclosure of realty mortgages, and there shall be added to the amount of such assessment or any portion thereof, the interest thereon, all costs and expenses, including reasonable attorneys' fees, incurred by the Approving Agent in collecting the delinquent assessment. Each owner vests in the Approving Agent, its successors or assigns, the right and power to bring all actions of law or lien foreclosure against such Owner or other Owners for purposes of collecting delinquent assessments.

(iv) The assessment lien and the rights to foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Approving Agent and its successors and assigns may have hereunder and by law.

(v) The lien of the Noncompliance Expenses assessments provided for herein shall be subordinate to the lien of any deed of trust or mortgage nor or hereafter placed upon any of the Sites within the Property subject to such assessments; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such Site pursuant to a decree of foreclosure, or any other proceeding in lieu of such foreclosure. Such sale or transfer shall not relieve such Site from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

5. The result of any action or omission whereby the Restrictions are violated in whole or in part is hereby declared to be and to constitute a nuisance, and every remedy allowed at law or in equity therefore shall be available to the Approving Agent.

6. The Approving Agent may recover from any person or persons violation or attempting to violate the Restrictions, its attorneys' fees and other expenses incurred to enforce the Restrictions, or to restrain a violation thereof whether or not a suit or other proceeding are filed.

7. All remedies provided herein or at law or in equity shall be cumulative and not exclusive, regardless of the specificity of any right or remedy provided for in this Declaration. Failure by any person to enforce the Restrictions or any provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter. Invalidation of any one of the Restrictions or any provision herein contained shall not affect any other Restriction or other provision, each of which shall remain in full force and effect.

8. The Restrictions shall continue to remain in full force and effect at all times with respect to all the Property and each part thereof, now and thereafter made subject thereto (subject, however, to the right to terminate, extend, modify or amend as provided for herein) for a term of thirty (30) years from the date this Declaration is recorded. However, unless within (1) year prior to the expiration of said thirty (30) year term shall be recorded an instrument conforming to the provisions of subparagraph G.9 below directing the termination of the Restrictions, the Restrictions as in effect immediately prior to the expiration date of said thirty (30) year term shall be continued automatically without further notice for an additional period of five (5) years and thereafter for successive terms of five (5) years unless within one (1) year prior to the expiration of any such five (5) year period the Restrictions are terminated as set forth below in subparagraph G.9.

9. This Declaration, the Restrictions, or any provision contained herein may be terminated, extended, modified or amended as to the whole Property or any portion thereof with the written consent of the Owners of seventy five percent (75%) of the Property owned as compared to the total number of square feet of the Property, with each Owner receiving one (1) vote for each square foot of the Property Owned; provided, however, that:

(a) So long as the Approving Agent owns at least twenty five percent (25%) of the Property, or any beneficial interest in any trust owning the Property subject to the Restrictions, or

(b) For a period of fifteen (15) years from the effective date hereof,

whichever period is longer,

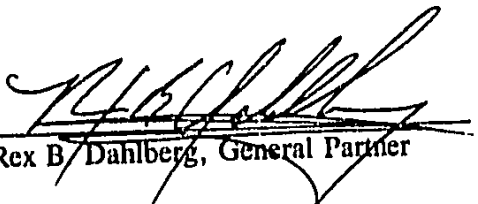
no such termination, extension, modification of amendment shall be effective without the prior written consent of the Approving Agent thereto. If the Approving Agent is within the definition of subparagraph A.1(a) or (b), it shall be deemed to own for Purposes of this subparagraph G.9 any Site or portion of the Property owned by a corporation, association, partnership, joint venture, trust or other organization or entity controlling or controlled by such Approving Agent. No such termination, extension, modification of amendment shall be effective until a proper instrument in writing has been executed, acknowledged and recorded in the Office of the Salt Lake County Recorder, Utah.

10. The violation of any provision, covenant, condition, restriction or reservation contained in this Declaration shall not restrict, impair or defeat the lien of any Mortgage or Deed of Trust now existing or hereafter made in good faith and for value on any Site, or portion thereof, or restrict, impair or defeat any right or power of sale contained therein or limit or prevent the foreclosure thereof; provided, however, that any subsequent Owner of any Site or portion thereof, whether such ownership was obtained by foreclosure, by trustee's sale or otherwise, shall thereupon be subject to and bound by all of the provisions of this Declaration.

IN WITNESS WHEREOF, the undersigned has executed this Declaration on the date first above written.

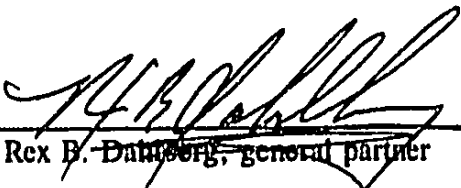
DECLARANT:

INDUSTRIAL CENTRE PARK, LTD.  
a Utah limited partnership

By:   
Rex B. Dahlberg, General Partner

CONSENT OF OWNERS OF PROPERTY WITHIN THE PROPERTY  
DESCRIBED IN EXHIBIT "A"

FREIGHT TERMINALS, LTD.  
a Utah limited partnership

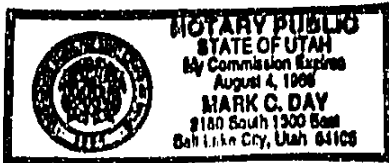
By:   
Rex B. Dahlberg, general partner

BUZZ OATES ENTERPRISES II,  
a California general partnership

By:   
Marvin L. Oates, general partner

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

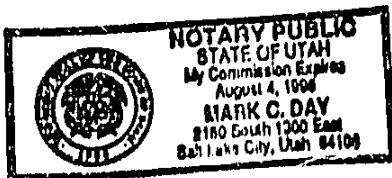
On this 23 day of August, 1996, personally appeared before me REX B. DAHLBERG, whose identity is personally known to me or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed, did say that he is a general partner of INDUSTRIAL CENTRE PARK, LTD., and that said document was signed by him in behalf of said partnership, and said REX B. DAHLBERG acknowledged to me that said partnership executed the same.



Mark C. Day  
NOTARY PUBLIC

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

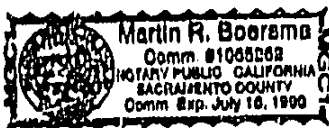
On this 23 day of August, 1996, personally appeared before me REX B. DAHLBERG, whose identity is personally known to me or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed, did say that he is a general partner of FREIGHT TERMINALS, LTD., and that said document was signed by him in behalf of said partnership, and said REX B. DAHLBERG acknowledged to me that said partnership executed the same.



Mark C. Day  
NOTARY PUBLIC

STATE OF CALIFORNIA )  
COUNTY OF Sacramento ) : ss.

On this 22 day of August, 1996, personally appeared before me MARVIN L. OATES, whose identity is personally known to me or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed, did say that he is a general partner of BUZZ OATES ENTERPRISES II, and that said document was signed by him in behalf of said partnership, and said MARVIN L. OATES acknowledged to me that said partnership executed the same.



Martin R. Boersma  
NOTARY PUBLIC  
MARTIN R. BOERSMA

EXHIBIT "A"

AMENDED PLAT, INDUSTRIAL CENTRE PARK, PHASE 1 SUBDIVISION (being Lots 1, 2, 3 and 4 of said Phase 1), according to the official plat thereof on file and of record in the office of the Salt Lake County Recorder, State of Utah.

Also the following described property which will be known as Lot 1, INDUSTRIAL CENTRE PARK PHASE 3 SUBDIVISION:

Beginning at the Southwest corner of Lot 3, AMENDED PLAT, INDUSTRIAL CENTRE PARK, PHASE 1 SUBDIVISION, as recorded 6-10-1997, ~~1996~~, in the office of the Salt Lake County Recorder, being Entry No. 6665077, Book 97-6P, Page 174, and running thence along the South line of said Lot 1 the next four courses and distances, North  $89^{\circ}54'49''$  East 492.29 feet; thence Southeasterly 81.585 feet along the arc of a 478.34 foot radius curve to the right, (chord bears South  $54^{\circ}53'21''$  East 81.486 feet); thence South  $50^{\circ}00'11''$  East 119.03 feet; thence South  $89^{\circ}49'35''$  East 72.09 feet to the point of curve on the 3200 West Street cul-de-sac; thence Southeasterly 118.037 feet along the arc of a 75.00 foot radius curve to the left, (chord bears South  $44^{\circ}54'48''$  East 106.227 feet); thence South 137.98 feet along the West line and to the Southwest corner of Lot 1, INDUSTRIAL CENTRE PARK, PHASE 2 SUBDIVISION, as recorded and on file in the office of the Salt Lake County Recorder, Entry No. 4793564, Book 89-6, Page 60; thence South  $89^{\circ}53'24''$  West 1149.85 feet; thence Northwesterly 356.669 feet along the arc of an 810 foot radius curve to the right and being the centerline of Gladiola Street, (chord bears North  $17^{\circ}25'11''$  West 353.793 feet); thence North  $89^{\circ}54'49''$  East 458.53 feet to the point of beginning. Contains 8.693 acres.

*RAC*