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Recorded at Request of

at 342 P Fee Paid 53.50

Salt Lake County, Utah, By George Washington

*San Cott, Bagley, Cornwall & McCarthy*  
141 E. 100 So.  
SEP 25 1978  
See 84111

KATIE L. DIXON, Recorder

SEP 25 1978

Dept. Date

SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS, AND  
RESTRICTIONS OF VILLAGE 2 PLANNED UNIT DEVELOPMENT

PHASE III

THIS SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS,  
AND RESTRICTIONS is made and entered into this 17th day of  
August, 1978, by Utah Growth Properties, Inc., a Maryland  
corporation, hereinafter referred to as the "Declarant."

RECITALS:

A. Description of Parcel. The Declarant is fee owner  
of the following described parcel of real property, hereinafter  
referred to as the "Phase III Parcel," located in Salt Lake  
County, State of Utah:

Beginning at the intersection of the present  
south line of 4100 South Street and the east  
line of 2700 West Street, said point being  
South 89° 50' 08" East 50.00 feet and South  
0° 00' 47" West 33.00 feet from the North  
quarter corner of Section 4, T. 2S. - R.  
1W., S.L.B. & M. and running thence along  
the present south line of 4100 South Street  
as follows: South 89° 50' 08" East 754.61  
feet; thence South 77° 36' 10" East 98.54  
feet to the Northwest corner of Village II  
Phase 2 (second amendment) a subdivision  
located in the Northeast quarter of  
Section 4, T. 2S. - R. 1W., S.L.B. & M.;  
thence along the West and North line of  
said Village II Phase 2 Subdivision as  
follows: South 0° 09' 52" West 149.59 feet;  
thence South 41° 00' 02" East 30.00 feet  
to a point on a curve to the left the center  
of which is South 41° 00' 02" East 115.00  
feet; thence Southwesterly along the arc  
of said curve 98.32 feet to a point of  
tangency; thence South 0° 00' 47" West  
505.48 feet to a point on a curve to the  
left on the North line of Dutch Draw the  
center of said curve being South 2° 16'  
25" West 677.18 feet; thence westerly  
along the arc of said curve 24.93 feet to  
a point of tangency; thence North  
89° 50' 08" West along said north line  
30.15 feet to the centerline of the North  
Jordan Canal Right-of-Way; thence running  
along said centerline as follows: North  
4° 10' West 10.89 feet; thence North 30°  
15' West 84.21 feet; thence North 40°  
34' 10" West 278.57 feet; thence North  
33° 30' 10" West 163.68 feet; thence North  
43° 15' 10" West 110.72 feet; thence North  
55° 56' 54" West 297.12 feet; thence North

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67° 02' 15" West 150.52 feet to the east  
line of 2700 West Street; thence North 0°  
00' 47" East along said east line 49.74  
feet to the point of beginning.

B. Enabling Declaration. The Phase III Parcel has been submitted to the terms of that certain Enabling Declaration of Covenants, Conditions, and Restrictions of Village 2 Planned Unit Development (Part A), which was recorded in the Office of the County Recorder for Salt Lake County, State of Utah, on the 16th day of October, 1973, as Entry No. 2576236 in Book 3439 at pages 308-329, and upon recordation of this Supplemental Declaration will become a Parcel of the Village 2 Planned Unit Development, subject to the covenants, conditions, restrictions, reservations, assessments, charges, and liens as set forth in said Enabling Declaration.

C. Supplemental Declaration. The Declarant intends by filing this Supplemental Declaration to submit said Phase III Parcel and all improvements now or hereafter made thereon to those additional and supplemental easements, covenants, conditions, restrictions, reservations, assessments, charges, and liens set forth in this Supplemental Declaration.

D. Intent and Purpose. The Declarant intends to sell to various purchasers Phase III Lots located within said Phase III Parcel, as described and shown on the Phase III Plat, subject to the covenants, conditions, restrictions, reservations, assessments, charges, and liens set forth in the said Enabling Declaration and subject to the additional and supplemental easements, covenants, conditions, restrictions, reservations, assessments, charges, and liens set forth in this Supplemental Declaration.

THEREFORE, the Declarant hereby declares that the Phase III Parcel and all improvements now existing or hereafter made thereon shall be held, sold, conveyed, and occupied subject to the following easements, covenants, conditions, restrictions, reservations, assessments, charges, and liens:

#### ARTICLE I

##### DEFINITIONS

1.01. Defined Terms. Unless the context clearly indicates otherwise, certain terms as used in this Supplemental Declaration and in the foregoing Recitals shall have the respective meanings set forth in this Article I.

1.02. "Association" shall mean the Village 2 Owners Association, a Utah nonprofit corporation.

1.03. "Declarant" shall mean Utah Growth Properties, Inc., a Maryland corporation, its successors or assigns.

1.04. "Enabling Declaration" shall mean the Enabling Declaration of Covenants, Conditions, and Restrictions of Village 2 Planned Unit Development referred to in Paragraph B of the Recitals above.

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1.05. "Entire Tract" or "Entire Development" shall mean the following described tract of land situated in Salt Lake County, State of Utah:

Commencing on the East line of 2700 West Street and the South line of 4100 South Street, said point being South 0°00'47" West 33.00 feet and South 89°50'08" East 50.00 feet from the North Quarter Corner of Section 4, Township 2 South, Range 1 West, Salt Lake Base & Meridian; and running thence along the South line of 4100 South Street, South 89°50'08" East 754.61 feet and South 77°36'10" East 410.60 feet and South 89°50'08" East 451.58 feet to the West line of I-215 (Belt Rout); thence along said West line South 03°12'39" West 365.98 feet and South 06°00'06" West 560.36 feet and South 08°25'46" West 996.97 feet and Southerly along the arc of a 5849.58 foot radius curve to the left 616.91 feet to the Quarter Section Line; thence South 89°52'50" West along said Quarter Section Line 1324.36 feet to the East line of 2700 West Street; thence North 0°00'47" East along said East line 2617.52 feet to the point of beginning.

The Phase III Parcel, which this Supplemental Declaration submits to the certain easements, covenants, conditions, restrictions, reservations, assessments, charges, and liens as hereinafter set forth, comprises only a part of the Entire Tract. The description of the Entire Tract is set forth in this Supplemental Declaration solely for purpose of identification. This Supplemental Declaration is not intended and should not be deemed to constitute any lien, encumbrance, restriction, or limitation upon any real property or any interest in real property other than said Phase III Parcel.

1.06. "Manager" shall mean the person or organization (if any) designated from time to time by the Association to manage or administer, in whole or in part, the duties and obligations of the Association hereunder.

1.07. "Mortgagee" shall mean (i) any person or entity named as mortgagee, beneficiary, or secured party under any mortgage, deed of trust, or other security instrument by which the interest of any Phase III Owner is encumbered, or (ii) any successor to the interest of such person or entity.

1.08. "Parcel" shall mean each portion of the Entire Tract separately submitted to the terms of the Enabling Declaration as now constituted or hereafter amended, with the intention that it shall thereby comprise or in the future may become a part of the Project. The Phase III Parcel subject of this Supplemental Declaration constitutes a Parcel.

1.09. "Part" shall mean each separate step in development of the Entire Tract, which is initiated though the submission of a Parcel to the terms of the Enabling Declaration as now constituted or hereafter amended. The term shall also include all improvements which are constructed and all appurtenances,

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rights, obligations, and legal relationships which come into existence in conjunction with the submission of any single Parcel.

1.10. "Phase III Lot" shall mean any plot of land within the exterior boundaries of the Phase III Parcel, which plot is intended to be used and occupied by a single family or living group, as such Phase III Lots are established and shown upon the Phase III Plat. Each Phase III Lot shall also include any carport facilities appurtenant thereto, which carport facilities are designated on the Phase III Plat by the letter "C", followed by the number of the Phase III Lot to which such carport is appurtenant.

1.11. "Phase III Owner" shall mean the record owner, whether one or more persons or entities, of a Phase III Lot; provided, however, that the term shall not include any Mortgagee (unless such Mortgagee has acquired title for other than security purposes) or any purchaser of a Phase III Lot under contract (until such contract is fully performed and legal title conveyed of record).

1.12. "Phase III Parcel" shall mean the real property described in Paragraph A of the Recitals above, which this Supplemental Declaration submits to the easements, covenants, conditions, restrictions, reservations, assessments, charges, and liens as hereinafter set forth.

1.13. "Phase III Plat" shall mean that certain subdivision plat entitled "Village II Phase 3" pertaining to the Phase III Parcel and recorded in the office of the County Recorder for Salt Lake County, State of Utah, on the 25th day of August, 1977, as Entry No. 2987847 in Book 77-8 at Page 261.

1.14. "Phase III Roadways" shall mean the streets and roadways within the exterior boundaries of the Phase III Parcel conveyed or to be conveyed to the Association for the use and benefit of the Phase III Owners, as such Phase III Roadways are identified and shown (as cross-hatched areas) on the Phase III Plat.

1.15. "Planned Unit Development", "Development", or "Project" shall mean the Village 2 Planned Unit Development. At any point in time the Development shall consist of all Parts which are then in existence.

1.16. "Recreational Areas and Facilities" shall mean such portions of a Parcel as are conveyed or to be conveyed to the Association, which portions are intended for the common use and enjoyment of all persons holding interest in any Parcel of the Development, as distinguished from only those persons or entities holding an interest in a particular condominium, townhouse, or subdivision project within the Development.

1.17. "Supplemental Declaration" shall mean this Supplemental Declaration of Covenants, Conditions, and Restrictions of Village 2 Planned Unit Development Phase III.

## ARTICLE II

### SUBMISSION AND RESERVATIONS

2.01. Submission. The Declarant hereby submits the

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Phase III Parcel and all improvements now existing or hereafter made thereon to the provisions of this Supplemental Declaration. The Phase III Parcel and all improvements now existing or hereafter made thereon shall be held, sold, conveyed, occupied, and otherwise affected subject to the easements, covenants, conditions, restrictions, reservations, assessments, charges, and liens set forth herein, each and all of which are declared and agreed to be for benefit of said Phase III Parcel and in furtherance of a plan for improvement thereof. Each and all of the provisions hereof shall be deemed to be covenants of equitable servitude and to run with the land, and shall be both a benefit and a burden to the Declarant, its successors and assigns, and to any party acquiring or holding an interest in the Phase III Parcel or any part thereof, and the heirs, successors, and assigns of such party. The foregoing submission is made subject to all easements and rights-of-way of sight or record, including various electrical, telephone, and gas line easements and rights-of-way of record or shown on any plat affecting the Phase III Parcel or any part thereof.

2.02. Reservations. Reserved from the foregoing submission are all Recreational Areas and Facilities located within the exterior boundaries of the Phase III Parcel, as shown on the Phase III Plat. Also reserved from the foregoing submission are such easements and rights of ingress and egress over, across, through, and under the Phase III Parcel and improvements now existing or hereafter made thereon as may be necessary, desirable, or convenient to develop each and every part of the Entire Tract as a Part of Parts. If, pursuant to this reservation, the above-described real property or any improvement thereon is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line shall exist. With the exception of such perpetual easements, the reservation herein effected for development of the Entire Tract shall terminate upon the first to occur of the following events: (a) When each and every portion of the Entire Tract is part of a fully completed Part; or (b) When the right to add additional Parts to the Development terminates. Also reserved from the foregoing submission are such easements, rights of way, rights of ingress and egress over, across, and through the Phase III Parcel and improvements now existing or hereafter made thereon (except Phase III Lots) as may be necessary, desirable, or convenient to allow complete non-motorized access from any portion of the Entire Tract to any other portion of the said Entire Tract containing Recreational Areas and Facilities.

### ARTICLE III

#### PHASE III ROADWAYS

3.01. Limited Uses. Subject to the limitations herein set forth, the Phase III Roadways shall be and remain for the use and benefit of Phase III Owners as roadways for access, ingress, and egress to and from Phase III Lots and other improvements on any portions of the Phase III Parcel, unless the Phase III Owners unanimously agree to change such use. No change of use of the Phase III Roadways shall be effective unless and until there shall be recorded in the Office of the

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County Recorder for Salt Lake County, State of Utah, a written instrument duly executed and acknowledged by all Phase III Owners agreeing to such change of use.

3.02. Easements and Rights. Every Phase III Owner shall have a nonexclusive right and easement to use and enjoy the Phase III Roadways for access, ingress, and egress to and from the Phase III Lots and other improvements on and portions of the Phase III Parcel, which right and easement shall be appurtenant to and shall pass with title to every Phase III Lot, subject to the following provisions:

(a) The right of the Association to levy and collect annual and special Phase III assessments, as hereinafter provided.

(b) The right of the Association to promulgate, rescind, amend, and enforce reasonable rules and regulations governing use of the Phase III Roadways, as hereinafter provided.

(c) The right of the Association to dedicate or convey all or any part of the Phase III Roadways to any public agency, authority, or utility, for such purposes and subject to such conditions as may be agreed to be the record fee owners of not less than two-thirds (2/3) of the Phase III Lots. No such dedication or conveyance shall be effective unless and until there shall be recorded in the Office of the County Recorder for Salt Lake County, State of Utah, a written instrument duly executed and acknowledged by the record fee owners of not less than two-thirds (2/3) of the Phase III Lots, agreeing to such dedication or conveyance.

3.03. Delegation and Assignment of Use. Any Phase III owner may delegate to the members of his family and to his guests, in accordance with reasonable rules and regulations promulgated by the Association, such owner's right to use and enjoy the Phase III Roadways. Any Phase III Owner may also assign or delegate to his tenants or contract purchasers (who reside on the Phase III Lots), in accordance with reasonable rules and regulations promulgated by the Association, such owner's right and easement to use and enjoy the Phase III Roadways.

3.04. Management of Phase III Roadways. The Association, subject to the rights and duties of Phase III Owners as set forth in this Supplemental Declaration, shall be responsible for the management, control, operation, care, maintenance, repair, replacement, and upkeep of the Phase III Roadways, unless and until such responsibility is transferred to and accepted by a public agency, authority, or utility, and such transfer is agreed to by the record fee owners of not less than two-thirds (2/3) of the Phase III Lots. No such transfer shall be effective unless and until there shall be recorded in the Office of the County Recorder for Salt Lake County, State of Utah, a written instrument duly executed and acknowledged by the record fee owners of not less than two-thirds (2/3) of the Phase III Lots, agreeing to such transfer.

3.05 Rules and Regulations. The Association shall have the power and authority to promulgate, rescind, amend, and

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enforce reasonable rules and regulations governing use of the Phase III Roadways; provided, however, that such rules and regulations shall be consistent with the rights and obligations established by this Supplemental Declaration. The Association shall furnish to each Phase III Owner copies of all such rules and regulations promulgated by the Association, copies of all amendments thereto and rescissions thereof, and copies of all decisions and resolutions of the Association adopted pursuant thereto.

#### ARTICLE IV

##### EXTERIOR MAINTENANCE AND ARCHITECTURAL CONTROL

4.01. Architectural Control Committee. The Architectural Control Committee which is vested with the powers described herein shall initially consist of three (3) persons appointed by the Declarant. The Declarant shall have the option to appoint all of the members of the Architectural Control Committee until the earlier to occur of the following two events:

(i) Seven (7) years from the date this Supplemental Declaration is filed and recorded in the official records of Salt Lake County, Utah; or

(ii) The date upon which the Declarant has sold all of the Phase III Lots.

In the event the Declarant fails to exercise this option and from and after the date that this option expires as aforesaid, the Architectural Control Committee shall consist of the President of the Board of Trustees of the Association, plus two additional members who shall be chosen by the President of the Board of Trustees of the Association from among the Phase III Owners.

4.02. Architectural Control. No building, fence, wall, or other structure shall be commenced, erected or maintained upon any Phase III Lot, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, colors and location of same shall have been submitted to and approved in writing as to harmony of exterior design and location in relation to surrounding structures and topography by the Architectural Control Committee. In the event the Architectural Control Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Paragraph will be deemed to have been fully complied with.

4.03. Exterior Maintenance. In addition to maintenance pursuant to the Enabling Declaration of the common areas in the Phase III Parcel which are part of the Recreational Areas and Facilities of the entire Planned Unit Development, the Association shall provide exterior maintenance upon each Phase III Lot which is subject to assessment hereunder as follows: Paint, repair, replace and care for roofs, gutters,

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downspouts, exterior building surfaces and other exterior improvements to the structures on the Phase III Lots. Such exterior maintenance shall not include glass surfaces, doors, screens, window or door fixtures, walks, drives, carport or patio floor surfaces, trees, shrubs, grass or other grounds or landscaping features. In the event that the need for maintenance or repair is caused through the willful or negligent act of the Phase III Owner, his family or guests or invitees, the cost of such maintenance or repairs shall be added to and become part of the assessment to which such Phase III Lot is subject. Notwithstanding the foregoing, the Association shall not be obligated for any maintenance, repairs or replacements required as the result of fire or other casualty with respect to the improvements on any Phase III Lot.

4.04 Party Walls. Each wall which is built as a part of the original construction of the homes, garages or carports upon the Phase III Parcel and placed on the dividing line between two of the Phase III Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Paragraph, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. The cost of reasonable repair and maintenance of a party wall shall be shared by the phase III Owners who make use of the wall in proportion to such use. If a party wall is destroyed or damaged by fire or other casualty, any Phase III Owner who has used the wall may restore it, and if the other Phase III Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Phase III Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions. Notwithstanding any other provision of this Paragraph, a Phase III Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements. The right of any Phase III Owner to contribution from any other Phase III Owner under this Paragraph shall be appurtenant to the land and shall pass to such Phase III Owner's successors in title.

#### ARTICLE V

##### COVENANT FOR PHASE III ASSESSMENTS

5.01 Covenant to Pay Assessments. The Declarant, for each Phase III Lot owned by it, and for and as owner of the Phase III Parcel and every part thereof, hereby covenants and each owner of any Phase III Lot by acceptance of instruments of conveyance and transfer thereof, whether or not it be so expressed in said instruments, shall be deemed to covenant and agree with each other and with the Association to pay to the Association all annual and special Phase III assessments, such assessments to be fixed, established, levied, and collected from time to time as hereinafter provided.

5.02 Phase III Assessments in Addition to Assessments for Common Expenses Under Enabling Declaration. The annual and special Phase III Assessments payable pursuant to this Article V shall be in addition to the assessments for Common Expenses of the entire Planned Unit Development which shall be levied and assessed by the Association against the Phase III Lots (and all other Lots and Living Units in the Planned Unit Development) pursuant to the Enabling Declaration.

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5.03 Purpose of Phase III Assessments. The annual and special Phase III assessments levied hereunder shall be used exclusively for management, control, operation, care, maintenance, repair, replacement, and upkeep of the Phase III Roadways as provided in Article III above, for exterior maintenance of the structures on the Phase III Lots as provided in Article IV above, and for payment of cost and expenses incurred by the Association in performing its other obligations hereunder.

5.04 Annual Phase III Assessments. Annual Phase III assessments shall be determined and levied by the Association against each and every Phase III Lot as follows:

(a) Commencement of Annual Phase III Assessments. Annual Phase III assessments hereunder shall commence with respect to all Phase III Lots as of the first day of the third calendar month following the date on which the first sale by Declarant of a Phase III Lot shall be closed.

(b) Proposed Annual Budget. Annual Phase III assessments shall be made on the basis of the fiscal year of the Association as the same may be established from time to time pursuant to the Articles of Incorporation and By-Laws of the Association, except the first annual Phase III assessment which shall be made on the basis of a period commencing on the commencement date specified above in Section 5.04(a) and ending on the next following June 30. As to each respective fiscal year or period, the Association shall prepare a proposed annual budget based upon advance estimates of the Association's cash requirements to provide for payment of all estimated expenses arising out of management, control, operation, care, maintenance, repair, replacement, and upkeep of the Phase III Roadways, exterior maintenance of the structures on the Phase III Lots and performance by the Association of its other obligations hereunder, including the creation of a reserve or contingency fund in such sum as the Association may deem necessary or prudent to provide an adequate reserve for maintenance, repairs and replacements that must be performed or provided on a periodic basis and for other expenses or liabilities thereafter to accrue, although not payable in that fiscal year.

(c) Notice and Hearing. The Association shall give written notice of the proposed annual budget to each Phase III Owner and shall thereafter hold a hearing with the Phase III Owners in connection with and to consider said proposed annual budget. The said notice of the proposed annual budget shall set forth the date, time, and place for the hearing, which hearing shall be held not more than thirty (30) nor less than ten (10) days after mailing of such notice to the Phase III Owners.

(d) Final Annual Budget. The Association shall, after due consideration of the results of the hearing on the proposed annual budget, prepare a final annual budget for the following fiscal year or period. The total amount of said final annual budget shall be divided among all of the Phase III Lots at the rates specified in Paragraph 5.06 below. The portion of the final annual budget so allocated to each Phase III Lot in accordance with Paragraph 5.06 shall be levied against and assessed to such Phase III Lot as the annual Phase III assessment for the fiscal year or period to which such assessment relates. Annual Phase III assessments shall be due and payable in monthly, quarterly, semi-annual or annual installments, as determined from time to time by the Association.

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(e) Notice of Annual Phase III Assessment. The Association shall give written notice to each Phase III Owner as to the amount of the annual Phase III assessment with respect to his Phase III Lot for the subject fiscal year or period, setting forth the total amount of such assessment and the date or dates on which the same or installments thereof are due and payable. No annual Phase III assessment or installment thereof shall be due and payable less than thirty (30) days after the mailing of notice thereof to the Phase III Owners.

5.05 Special Phase III Assessments. In addition to the annual Phase III assessments provided for above, the Association may levy special Phase III assessments for the purpose of defraying, in whole or in part, the costs of any construction, reconstruction, repair, or replacement of the Phase III Roadways, or any part thereof, or for the purpose of defraying, in whole or in part, the cost of any maintenance, repairs or replacement of exterior building surfaces or other exterior improvements to the structures on the Phase III Lots, or for the purpose of defraying, in whole or in part, any other costs or expenses incurred or to be incurred by the Association hereunder; provided, however, that no such special Phase III assessment shall be levied without the prior written consent of the record owners of at least two-thirds (2/3) of the Phase III Lots. Any special Phase III assessments levied hereunder shall be divided among and assessed to the Phase III Lots in accordance with the rates specified in Paragraph 5.06 below, and shall be payable over such periods and on such terms as the Association may determine. The Association shall give written notice to each Phase III Owner as to the amount of any special Phase III assessment against his Phase III Lot, setting forth the total amount of such assessment and the date or dates on which the same or installments thereof are due and payable. No special Phase III assessment or installment thereof shall be due and payable less than thirty (30) days after the mailing of notice thereof to the Phase III Owners.

5.06 Rate of Assessments. Both annual and special Phase III assessments shall be fixed at a uniform rate for all Phase III Lots except the Phase III Lots which are owned by the Declarant, and the assessments shall be adjusted so that each Phase III Lot owned by the Declarant shall be assessed at a rate equal to one-half (1/2) the rate of assessment for each Phase III Lot which is owned by a Phase III Owner other than the Declarant. For the purpose of determining whether a particular Phase III Lot is subject to the rate of assessment applicable to the Declarant or to the rate applicable to other Phase III Owners, changes in record title to a Phase III Lot shall be deemed to be effective as of the first day of the first month following the date that a sale by Declarant of such Phase III Lot is closed, and each installment of any annual or special assessment against such Phase III Lot which falls due after such effective date of change of title shall be calculated at the full rate applicable to Phase III Lots owned by Phase III Owners other than the Declarant.

5.07 Interest. All unpaid portions of any annual or special Phase III assessment shall bear interest at the rate of one percent (1%) per month from the date such portions become due until paid.

5.08 Lien for Assessments. All sums assessed to or levied against any Phase III Lot by the Association pursuant to the provisions of this Article V, together with interest thereon as herein provided, shall be secured by a lien on such Phase III Lot in favor

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of the Association. To evidence such liens for sums assessed pursuant to this Article V, the Association may prepare a written notice of lien setting forth the amount of the assessment, the date or dates due, the amount remaining unpaid, a description of the Phase III Lot, and the name of the record owner thereof. Such notice shall be signed and acknowledged by a duly authorized officer or by the Manager of the Association and shall be recorded in the Office of the County Recorder for Salt Lake County, State of Utah. No such notice of lien shall be recorded until there is a delinquency in payment of the assessment. The Association may enforce such lien by judicial foreclosure in the same manner in which mortgages on real property may be foreclosed under Utah law. In any such foreclosure, the owner of the Phase III Lot involved shall be required to pay all costs and expenses incurred by the Association in such proceeding, including court costs and reasonable attorneys' fees, and such costs and expenses shall be secured by the lien being foreclosed.

5.09 Personal Obligation of Phase III Owner. The amount of each annual Phase III assessment and each special Phase III assessment against any Phase III Lot shall be the personal obligation of the record fee owner of such Phase III Lot to the Association. The Association may maintain a suit to recover a money judgment for such personal obligation without foreclosing or waiving the lien securing the same. No Phase III Owner may avoid or diminish any such personal obligation by waiving use and enjoyment of the Phase III Roadways or by waiving any services or amenities provided for in this Supplemental Declaration. In the event of any suit to recover a money judgment for unpaid assessments hereunder, the involved Phase III Owner shall pay all costs and expenses incurred by the Association in connection therewith, including court costs and reasonable attorneys' fees.

5.10 Statement of Account. Upon payment of a reasonable fee not to exceed \$25.00 and upon written request of any Phase III Owner or any mortgagee, prospective mortgagee, or prospective purchaser of a Phase III Lot, the Association shall issue a written statement setting forth any unpaid amounts of prior annual and special Phase III assessments against such Phase III Lot, the amount of the current annual Phase III assessment against such Phase III Lot and the due date or due dates thereof, and any credits or prepaid items with respect to such Phase III Lot. Such statement shall be conclusive upon the Association in favor of persons who rely thereon in good faith.

5.11 Liability of Purchaser. Subject to the provisions of Section 5.10 and subject to the provisions of Section 5.12, a purchaser of a Phase III Lot shall be jointly and severally liable with the seller thereof for all unpaid assessments against such Phase III Lot up to the time of the grant or conveyance; provided, however, that the provisions of this Section shall not prejudice such purchaser's right to recover from such seller the amount paid by the purchaser for such assessments.

5.12. Subordination of Lien to Mortgages. The lien to secure payment of assessments hereunder shall be subordinate to the lien of any first mortgage for the purchase of a Phase III Lot. The sale or transfer of any Phase III Lot pursuant to foreclosure of any such first mortgage shall extinguish the installments thereof which become due prior to such sale or transfer. No sale or transfer shall relieve any Phase III Lot from liability for assessments or installments thereof which thereafter become due or from the liens thereof. Nothing contained in this Section 5.12 shall relieve any Phase III Owner or former Phase III Owner from his personal obligations for assessments hereunder.

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ARTICLE VI

INSURANCE

6.01. Public Liability Insurance. The Association shall obtain and maintain at all times a broad form of comprehensive liability insurance coverage, in such amounts and in such forms as the Association deems advisable to provide adequate protection against liability for personal injury, death, and property damage arising from or incident to the ownership, operation, management, maintenance, repair, use, and other functions related to the Phase III Roadways or the exterior maintenance to be performed on the Phase III Lots by the Association. Such insurance shall be provided by companies licensed to do business in the State of Utah.

6.02. Insurance Policies. The Association shall make every effort to secure insurance policies that will provide for the following:

(a) The insurer or insurers shall waive subrogation as to any claims against the Association, the Manager (if any), Phase III Owners, the Declarant, and their respective agents, employees, and guests.

(b) The policy or policies cannot be cancelled, invalidated, or suspended on account of the conduct of any one or more individual Phase III Owners.

(c) Any "no other insurance" clause in the policy or policies shall exclude from consideration the policies of any individual Phase III Owners.

(d) The policy or policies cannot be cancelled, invalidated, or suspended on account of the conduct of any director, trustee, officer, or employee of the Association, without a prior written demand that the Association cure the defect.

6.03. Additional Insurance. In addition to the insurance coverage required by this Supplemental Declaration, the Association shall have the power and authority to obtain and maintain other similar and dissimilar insurance coverage in relation to the Phase III Roadways and the Association's duties and responsibilities hereunder, which additional insurance coverage may be in such amounts and in such forms as the Association from time to time deems appropriate.

6.04. Insurance Premiums. Insurance premiums reasonably allocable to insurance coverage obtained and maintained by the Association under this Article VI shall be deemed to be a cost of operating the Phase III Roadways and shall be assessed to the Phase III Lots as part of annual Phase III assessments in accordance with the provisions of Article V.

ARTICLE VII

TAXES

7.01. Taxes and Assessments. The Association shall pay all taxes, assessments, charges, and impositions of every

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kind and nature which are lawfully assessed or imposed by any governmental or public authority with respect to the Phase III Roadways.

7.02. Operating Expense. All taxes, assessments, charges, and impositions paid by the Association with respect to the Phase III Roadways shall be deemed to be a cost of operating the Phase III Roadways and shall be assessed to the Phase III Lots as part of annual Phase III assessments in accordance with the provisions of Article V.

#### ARTICLE VIII

##### TRASH COLLECTION

8.01. Trash Collection Services and Expenses. During any period of time when the Phase III Lots shall be ineligible, by reason of the private nature of the Phase III Roadways or for any other reason, to receive trash collection services from the governmental authority which is then responsible for providing public services in the area of the Project, the Association shall provide such trash collection services to the Phase III Lots as the Board of Trustees of the Association may deem to be necessary or appropriate. All costs and expenses of providing such trash collection services under this Article VIII shall be deemed to be a cost of operating the Phase III Roadways and shall be assessed to the Phase III Lots as part of the Annual Phase III Assessments in accordance with the provisions of Article V above.

#### ARTICLE IX

##### GENERAL PROVISIONS

9.01. Interpretation. The provisions of this Supplemental Declaration shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of the Phase III Parcel. Whenever used herein, unless the context shall otherwise require, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include all other genders. The Article and Section headings set forth herein are for convenience and reference only and are not intended to describe, interpret, define, limit, or otherwise affect the content, meaning, or intent of this Supplemental Declaration or any Article, Section, or provision hereof. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof. Failure to enforce any provision, covenant, condition or restriction of this Supplemental Declaration shall not operate as a waiver of any such provision, covenant, condition, or restriction or any other provision, covenant, condition, or restriction.

9.02. Compliance and Enforcement. Each Phase III Owner shall comply strictly with the provisions, covenants, conditions, and restrictions of this Supplemental Declaration, all rules and regulations promulgated hereunder by the Association and all decisions and resolutions of the Association adopted pursuant to the foregoing, as the same may be amended, modified, revised, or adopted from time to time. Failure on the part of any Phase III Owner to comply with any of the foregoing shall be grounds for an action to recover damages or for injunctive relief or both, maintainable by the Association or, in a proper case, by an aggrieved Phase III Owner. In the event of any action by the Association to enforce

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the provisions, covenants, conditions, or restrictions of this Supplemental Declaration or rules and regulations promulgated hereunder, whether by formal legal proceeding or otherwise, the Association shall be entitled to recover from the offending Phase III Owner all costs and expenses incurred by the Association in connection therewith, including court costs and reasonable attorneys' fees. The obligations, provisions, covenants, conditions and restrictions contained in this Supplemental Declaration with respect to the Association shall be enforceable by the Declarant or by any Phase III Owner through a proceeding for a prohibitive or mandatory injunction. The rights and remedies herein provided shall be in addition to all other rights and remedies of this Supplemental Declaration, rules and regulations promulgated by the Association, and decisions and resolutions of the Association adopted pursuant thereto.

9.03. Registration of Mailing Address. Each Phase III Owner shall register with the Association from time to time his current mailing address. All notices and demands intended to be given to or served upon any Phase III Owner may be sent by first class U.S. mail, postage prepaid, and addressed to the Phase III Owner at his registered mailing address or, if no address has been registered, to the Phase III Owner at the address of his Phase III Lot. All notices and demands intended to be given to or served upon the Association may be sent by first class U.S. mail, postage prepaid, and addressed to the Association at 4155 So. 2700 W., Salt Lake City, Utah 84119, or to the Association at such other address as the Association may from time to time designate by written notice to the Phase III Owners. Any notice or demand referred to in this Supplemental Declaration or in rules and regulations promulgated hereunder by the Association shall be deemed to have been given or served when deposited in the U.S. mail, first class postage thereon prepaid, and addressed as provided in this Section.

9.04. Obligations of Phase III Owners. All obligations of a Phase III Owner under and by virtue of the provisions contained in this Supplemental Declaration shall continue, notwithstanding that he may be leasing, renting, or selling under contract his Phase III Lot. The Owner of a Phase III Lot shall have no obligation for assessments hereunder or other obligations hereunder (except interest and costs of collection with respect to prior obligations) accruing after he conveys such Phase III Lot.

9.05. Amendment. Except as otherwise provided herein, this Supplemental Declaration may be amended by agreement of the record fee owners of not less than two-thirds (2/3) of the Phase III Lots. No such amendment shall be effective unless and until there shall be recorded in the Office of the County Recorder for Salt Lake County, State of Utah, a written instrument duly executed and acknowledged by the record fee owners of not less than two-thirds (2/3) of the Phase III Lots, setting forth such amendment. The foregoing rights of amendment shall be subject to the following paramount rights: For a period of seven (7) years from the date this Supplemental Declaration is recorded in the Office of the County Recorder for Salt Lake County, State of Utah, the Declarant shall have and is hereby vested with the right to amend this Supplemental Declaration. Such right shall apply without regard to the subject matter or nature of the amendment involved, provided only that any such amendment shall be consistent with applicable law.

9.06. Effective Date. This Supplemental Declaration shall take effect upon recording in the Office of the County Recorder for Salt Lake County, State of Utah.

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

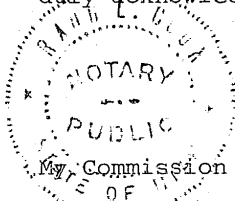
DECLARANT:

UTAH GROWTH PROPERTIES, INC.,  
a Maryland corporation,

By *Donner Buchet*  
Donner Buchet, Vice President

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

On the 17<sup>th</sup> day of August, 1978, personally appeared before me DONNER BUCHET, who being by me duly sworn did say that he is the Vice President of Utah Growth Properties, Inc., a Maryland corporation, and that the within and foregoing Supplemental Declaration of Covenants, Conditions, and Restrictions of Village 2 Planned Unit Development Phase III was executed on behalf of said corporation by authority of its By-Laws or a resolution of its Board of Directors; said DONNER BUCHET duly acknowledged to me that said corporation executed the same.



*Randolph Cook*  
NOTARY PUBLIC  
Residing at: *Salt Lake City, Utah*

My Commission Expires:  
OF THE STATE OF UTAH  
*April 18, 1981*

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