

DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
AND RESERVATION OF EASEMENTS  
FOR  
BROADSTONE SQUARE

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND RESERVATION OF EASEMENTS ("Declaration") is made on February \_\_, 1996, by Broadstone Development L.C., a Utah limited liability company ("Declarant").

RECITALS

A. Description of the Land. Declarant is the fee owner of certain real property located in the city of American Fork, County of Utah, State of Utah, which is more particularly described on Exhibit "A" attached hereto and incorporated by this reference.

B. Declaration. The Declarant hereby declares that all of the properties described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of and which shall run with the real property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

1.01 "Declarant" shall mean and refer to BROADSTONE DEVELOPMENT L.C., a Utah limited liability company, and its successors and assigns.

1.02 "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Broadstone Square.

1.03 "Exhibit" shall mean and refer to those documents so designated herein and attached hereto and each of such Exhibits is by this reference incorporated into the Declaration.

1.04 "Governing Instruments" shall mean and refer to this Declaration, the Association's Articles and Bylaws, together with the Association Rules and other such governing instruments if enacted.

1.05 "Lot" shall mean and refer to any numbered plot of land shown upon any recorded final tract map or parcel map of the properties (as hereinafter defined), with the exception of the common area.

1.06 "Member" shall mean and refer to every person or entity who holds membership in the Association.

1.07 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the properties (as hereinafter defined), including Declarant and contract buyers, but excluding those having such interest merely as a security for the performance of an obligation.

1.08 "Project" shall mean and refer to the property described in Exhibit "A".

1.09 "Sign" shall include any lettering, symbols, logos, trademarks, posters, decoration, advertising matter, or similar items used to attract public attention placed upon outside of the building.

1.10 "Properties" shall mean and refer to the real property described on Exhibit "A" attached hereto, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

1.11 "Association" shall mean and refer to BROADSTONE SQUARE PROPERTY ASSOCIATION, a Utah nonprofit corporation, its successors and assigns.

1.12 "Association Rules" shall mean rules adopted by the Association.

## ARTICLE II

### COMMERCIAL DEVELOPMENT

2.01 Land Use. The Property is zoned according to American Fork Zoning Ordinances. No portion of the Property shall be used for any purpose unless the same is

permitted within said classification as it exists on the date this Declaration is recorded or as it may be amended from time to time by proper authority.

2.02 Building Quality. All buildings shall be of a quality of workmanship and materials substantially the same or better than that which can be procured for buildings in similar projects on the date this Declaration is recorded. The quality of materials shall be subject to architectural control approval, as herein provided, as well as to any particular specifications required by applicable governmental body or authorities having jurisdiction over the project.

2.03 Set-Back Lines. All building set-back lines shall be within the prescribed allowances or limitations as set forth by the city of American Fork.

2.04 Tree Cutting Prohibited. The cutting of any living tree on the Property in excess of two inches diameter is prohibited without prior written architectural control approval from Declarant.

2.05 Landscaping. All landscaping shall be completed within one year from the time of occupancy or completion of the building. Landscaping shall prevent the free flow of soil from any lot onto any adjacent sidewalk, street, parkway, or lot. No tree, shrub, or other planting of any kind shall be allowed to overhang or otherwise encroach upon any sidewalk or pedestrian way from ground level to a height of seven (7) feet. Each owner shall keep all shrubs, trees, grass, and plantings of every kind neatly trimmed, properly cultivated and irrigated, and free of trash, weeds, and other unsightly material.

2.06 Utility and Drainage Easements. Easements for installation and maintenance of utilities and drainage facilities shall be set forth in any site plan approvals required by the city of American Fork. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area for any portion of the Property and all improvements within such area shall be maintained continuously by the owner thereof, except for those improvements, if any, for which a public authority or utility company is responsible.

2.07 Signage. All buildings shall have a uniform signage plan and policy and all signs shall be in conformance thereto in order to carry out the proposed integrated theme of the Project. Owners shall submit to Declarant all proposed exterior signs to be erected on or affixed to the building indicating the size, type, coloring, and location thereof. No signs shall be installed or affixed unless and until such sign is approved by any governmental entity having jurisdiction and by Declarant, which approval shall not be unreasonably withheld.

2.08 Nuisances. No noxious or offensive activity shall be carried on upon the Property nor shall anything be done thereon which may be or may become an annoyance or nuisance within the general Project area. The property shall be kept in a clean, neat, sanitary, and orderly condition, free of refuse and litter, objectionable noise, odors, nuisances, and will in all respects and at all times fully comply with the health, safety, and police regulations, rules, orders, and the like. The use of flashing lights, search lights, loudspeakers, phonographs, radios, or televisions which can be heard or experienced outside of the Property is prohibited. The placement of signs and placards in any parking area, landscape area, or on any vehicle is prohibited.

2.09 Deliveries. All deliveries or shipments of any kind to and from the buildings, including loading and unloading of goods shall be done only at such times as to not unreasonably interfere with other buildings and invitees thereof.

2.10 Promotional Materials. Owners shall not place or allow to be placed on any vehicles parked on the Project any handbills, bumper stickers, or other advertising or promotional materials.

2.11 Hazardous Materials. No portion of the property shall be used to place, hold, or dispose of any hazardous materials or inflammables, such as gasoline, kerosene, naphtha, benzene, explosives, or any other substance of an intrinsically dangerous nature.

2.12 Temporary Structures. No structure of a temporary nature nor any trailer, tent, shack, or other out-buildings shall be used upon the Property at any time except during construction and then only for the storage of equipment and/or materials.

2.13 Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon the Property nor shall oil wells, tanks, tunnels, or mineral excavations or shafts be permitted.

2.14 Garbage and Refuse Disposal. No portion of the Property shall be used or maintained as a dumping ground for rubbish or debris. Trash, garbage, or other waste shall not be kept on the Property except in sanitary containers. All containers used for the storage or disposal of such materials shall be kept in a clean and sanitary condition and secured from the view of all adjoining buildings and common areas. During construction, excess building materials and debris shall not be permitted to accumulate.

2.15 Parking: Trucks, Boats, Campers, Etc. Parking of automobile vehicles within the Project shall be limited to designated parking areas and shall not obstruct the free flow of traffic over or through the Project. No automobiles, trucks, motor homes, recreational vehicles, boats, snowmobiles, or other similar vehicles or mechanical equipment shall be parked or stored on any interior roadway, right-of-way, or parking lot located on the Property or within the Project for a period of time in excess of twenty-four (24) hours.

2.16 Maintenance of Property. Whether improved or unimproved, the Property shall be kept free of rubbish, weeds, trash, and debris of any kind and must be maintained in such manner as to not detract from the Property or the Project as a whole. Sidewalks, curbs, and gutters shall be kept clean, unobstructed and in good repair.

2.17 Ingress, Egress and Parking Lots. There is hereby created a non-exclusive reciprocal easement on all interior roadways, drives, rights-of-way, entrances, exits and parking lots on the Property which shall serve the entire Project and shall provide ingress, egress, and parking to owners and occupants of all buildings within the Project and their invitees.

### ARTICLE III

#### ARCHITECTURAL CONTROL

3.01 Architectural Control. No buildings or other structures shall be erected, placed or altered on the Property until the construction plans and specifications and a plan showing the location of the proposed structure thereon has been approved by Declarant as to conform with the overall Project plan or theme, quality of workmanship and materials, harmony of external design, location and color in relation to surrounding structures, and location with respect to topography and finish grade elevation.

3.02 Procedure. All plans and specifications submitted to Declarant for approval must be submitted in duplicate and accompanied by a written request for approval. Declarant's approval or disapproval shall be in writing and returned to the one making submission, together with a notation of approval or disapproval and the date thereof affixed to one copy of such plans and specifications. In the event Declarant fails to approve or disapprove of such plans and specifications within thirty (30) days after the same has been submitted, approval will not be required and the related covenants herein shall be deemed to have been fully complied with.

3.03 Transfer of Control. At such time when it chooses, the Declarant may transfer all matters pertaining to the architectural control to the Association for its determination.

### ARTICLE IV

#### PROPERTY OWNERS ASSOCIATION

4.01 Membership. Membership in the Broadstone Square Property Association, ("Association") shall be appurtenant to the land subject to this Declaration. Membership in

the Association cannot be severed or transferred separately from the real property to which it is appurtenant.

4.02 Membership Interest. The interest of each member in the Association shall correspond to the square footage of the property within the Project owned by such member as compared to the total square footage of all Property within the Project. Such interest shall be evidenced by a certificate or other writing from the Association.

4.03 Voting Rights, Assessments, Etc. The voting rights of members of the Association and their responsibility to pay assessments to the Association for Association purposes shall be based upon their respective membership interest; provided, however, that no assessments shall be due or payable on any portion of any additional land prior to the occupation of any building constructed on such portion.

4.04 Purposes. The purposes of the Association shall be to assure that the Project is developed and maintained as an integrated development; to care for and maintain any property owned by it, either real or personal, provided the members of the Association so elect; to maintain and repair any property in the Project the use of which is common to and beneficial to the whole Project, regardless of ownership, including landscaping, plantings, snow removal, lighting, power, easements, rights-of-way, walkways, sidewalks, parking areas, streams, etc.; and to enforce the provisions of this Declaration, if and when necessary.

4.05 Rules and Regulations. To carry out its purposes, the Association shall adopt Bylaws and/or Rules and Regulations and promulgate the same to its members, including amendments thereto made from time to time.

4.06 Association Assessment. To carry out its purposes, the Association shall adopt a fiscal year and proposed budget for such fiscal year. Except for the first fiscal year, which may be less than twelve (12) months, the Association shall adopt and communicate its budget to its members during the forty-five (45) days prior to the commencement of each fiscal year. The budget shall be allocated among the Association members on the basis of membership interests as set forth herein. The assessment of each member for the fiscal year shall be paid to the Association in monthly or other convenient installments as determined by the Association.

4.07 Reimbursement Assessment. The Association shall levy a reimbursement assessment against any owner if as a result of his failure to comply with this Declaration, the bylaws, or the Association rules, monies were or will be expended by the Association in performing its duties or rights. Such assessment shall be for the purpose of reimbursing the Association, shall be limited to the monies expended or to be expended, and shall be due and payable to the Association when levied.

4.08 No Offsets. All assessments shall be payable in the amount specified by the assessment and no offsets against such amount shall be permitted for any reason whatsoever, including without limitation, a claim that the Association is not properly exercising its duties of enforcement.

4.09 Effect of Nonpayment of Assessments and Remedies of the Association. Any assessment provided for in this Declaration which is not paid when due shall be delinquent and subject to a late charge in an amount as determined by the Association from time to time which charge shall not exceed the maximum amount permitted under the laws of the State of Utah. If such assessment is not paid within thirty (30) days after the due date, it shall bear interest from the due date at the rate of twenty-one percent (21%) per annum. In the event of a default or defaults in payment of any such assessment or assessments, and in addition to any other remedies herein or by law provided, the Association may enforce each such obligation by proceeding as is set forth as follows:

a. By suit or suits at law to collect each such assessment obligation. Said action shall be brought in the name of the Association and the Association shall be deemed to be acting on behalf of all the owners. Any judgment or award rendered in any such action against any such owner may include actual attorneys' fees reasonably incurred to be fixed by the court, interest at twenty-one percent (21%) per annum to date of judgment, and collection costs. Upon satisfaction of any such judgment, any authorized officer or agent of the Association shall, on behalf of the Association, execute and deliver to the judgment debtor an appropriate satisfaction thereof; or

b. By the Association giving written notice to the defaulting owner, specifying the date of the delinquency, the amount of the delinquency and demanding payment thereof. If such delinquency is not paid within ten (10) days after giving such notice, the Association may record a lien on the property of the defaulting owner. The lien may be foreclosed in the manner prescribed for the foreclosure of mortgages in the State of Utah.

c. The Association may, at its option, cut off services.

## ARTICLE V

### GENERAL PROVISIONS

5.01 Term. These covenants shall run with the land and shall be binding on all parties and all persons claiming under them for a period of forty (40) years from the date of recordation of this Declaration, after which time the covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument in writing signed by a majority in interest of the then members of the Association has been recorded, agreeing

to change the covenants in whole or in part; provided, however, that no amendment shall contravene with any applicable statute or ordinance.

5.02 Amendment. Except as otherwise provided above, this Declaration can be amended at any time by a recorded writing executed by seventy-five percent (75%) of the then members of the Association; provided, however, that no amendment shall contravene with any applicable statute or ordinance.

5.03 Attorney Fees. In any cause of action by the Association to enforce the provisions of this Declaration, including the collection of delinquent assessments, whether or not suit is filed, the Association shall be entitled to reasonable attorneys' fees and costs.

5.04 Conflict and Severability. In the event that any of the provisions of this Declaration are in conflict with the then existing zoning or building ordinances of the city of American Fork or the statutes or laws of the State of Utah or the United States of America, such ordinances and statutes shall control. If any provision, paragraph, sentence, clause, phrase, or word of this Declaration should under any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of the Declaration and the application of such provision, paragraph, sentence, clause, phrase, or word in any other circumstance shall not be affected thereby.

5.05 Headings and Titles. Headings and titles of sections are used in this Declaration for convenience or reference only and are not intended to limit, enlarge, or change the meaning or contents thereof.

5.06 Effective Date. This Declaration shall take effect upon the recording on the office of the County Recorder of Utah County, State of Utah.

5.07 Cumulative Remedies. The rights and remedies of the parties hereto shall be construed cumulatively, and none of such rights and remedies shall be exclusive of or in lieu or limitation of any other right, remedy or priority allowed by law.

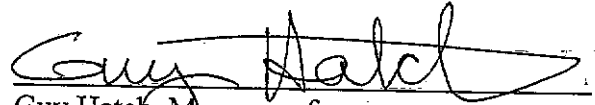
5.08 Notice. Any notice or other communication required or permitted to be given hereunder shall be deemed to have been received (a) upon personal delivery or actual receipt thereof or (b) within two (2) days after such notice is deposited in the United States mail, postage prepaid and certified and addressed to the respective addresses set forth above or to such other address(es) as may be supplied by a party to the other from time to time in writing.

5.09 Waiver of Breach. Any waiver by either party of any breach of any kind or character whatsoever by the other, whether such be direct or implied, shall not be construed as a continuing waiver of, or consent to any subsequent breach of this Agreement.



DECLARANT:

BROADSTONE DEVELOPMENT L.C.  
By VINTAGE CONSTRUCTION, L.L.C.  
Its Manager



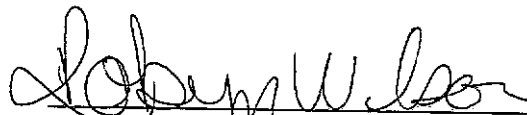
Guy Hatch, Manager of  
Vintage Construction, L.L.C.

STATE OF UTAH )

: ss.

County of Utah )

On this \_\_\_\_\_ day of February, 1996, personally appeared before me Guy Hatch, the manager of Vintage Construction, L.L.C., whose identity is personally known to me, or proved to me on the basis of satisfactory evidence, and who by me duly sworn, did say that he is the manager of Vintage Construction, L.L.C., and the manager of Broadstone Development L.C. and that said document was signed by him in behalf of said limited liability company by authority of its Operating Agreement and said Guy Hatch acknowledged to me that said limited liability company executed the same.



NOTARY PUBLIC

Commission expires 8-5-97

Residing in Lehi, Ut

