

WHEN RECORDED, PLEASE MAIL TO:
ENSIGN DOWNS, INC.
139 East South Temple, Suite 310
Salt Lake City, Utah 84111

5237674
16 APRIL 92 12:59 PM
KATIE L. DIXON
RECORDER, SALT LAKE COUNTY, UTAH
ASSOCIATED TITLE
REC BY: DIANE KILPACK, DEPUTY

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
CAPITOL HILLS PLAT "B"

WHEREAS, the undersigned ("Declarant") is the legal and beneficial owner of a certain tract of land situated in Salt Lake County, State of Utah, described as follows:

All lots (individually, a "Lot", and collectively, the "Lots") in Capitol Hills Plat "B", according to the official plat thereof, as recorded in the office of the County Recorder of said county (the "Property" or the "Subdivision"),

and, WHEREAS, Declarant desires to subject the Property to the provisions of this Declaration to create a residential community of single family housing; and,

WHEREAS, Declarant intends to sell the Lots pursuant to a general plan of improvement and subject to certain covenants, conditions, restrictions, stipulations, and agreements as hereinafter set forth:

NOW, THEREFORE, Declarant hereby declares that all of the Property is hereby subjected to the provisions of this Declaration and shall be held, sold, transferred, conveyed, used, leased, occupied, developed, resided upon, mortgaged, hypothecated, or otherwise encumbered, subject to the covenants, conditions, restrictions, stipulations, agreements, easements, assessments, and liens hereinafter set forth, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the Property. This Declaration shall be binding on and shall inure to the benefit of all persons having any right, title, or interest in all or any portion of the Property, their respective heirs, legal representatives, successors, successors-in-title, and assigns and shall inure to the benefit of each and every owner of all or any portion thereof:

1. **MUTUAL AND RECIPROCAL BENEFITS:** All of said covenants, conditions, restrictions, stipulations, and agreements are made for the direct and mutual and reciprocal benefit of each and every Lot and are intended to create reciprocal rights and obligations between the respective owners of all of the Lots and to create a privity of contract and estate between the grantees of said Lots, their heirs, successors and assigns, and shall, as to the owners of each Lot, their heirs, successors and assigns, to operate as covenants running with the land for the benefit of all other Lots in the Property and in adjacent subdivisions.

2. **PERSONS BOUND BY THESE RESTRICTIVE COVENANTS, AGREEMENTS AND CONDITIONS:** All covenants, conditions, restrictions, stipulations, and agreements herein stated shall run with the Lots, and all owners, purchasers or occupants thereof shall, by acceptance of contracts or deeds, possession or occupancy, be conclusively deemed to have consented to and agreed with the present and future owners of said Lots and with their respective successors and assigns to conform to and observe the following covenants, conditions, restrictions, and stipulations as to the use of the Lots and construction of residences and improvements thereon.

3. **DURATION:** This Declaration shall remain in effect for a period from the date hereof to January 1, 2013, at which time said conditions, restrictions, covenants, stipulations and agreements shall be automatically extended for successive periods of ten (10) years, unless, the then owners of at least eighty percent (80%) of said Lots agree to amend or release this Declaration in whole or in part and such agreement is evidenced by an appropriate written agreement, signed by the then owners of at least eighty percent (80%) of said Lots, and filed with the Office of the County Recorder of Salt Lake County, Utah.

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4. **AMENDMENT:** This Declaration may be changed, altered or amended at any time by the affirmative action of the owners of at least eighty-five percent (85%) of the Lots in the Subdivision. These changes shall be evidenced by the execution of an appropriate agreement in writing signed by the owners of at least eighty-five percent (85%) of the Lots, and filed for record in the Office of the County Recorder of Salt Lake County, Utah.

Provided; however, that any amendment or release regarding Section 6.1 of this Declaration shall require a unanimous vote of all of the owners of the Lots in the Property. Any such change shall be evidenced by the execution of an appropriate agreement in writing signed by the owners of one-hundred percent (100%) of such Lots and filed for record in the Office of the County Recorder of Salt Lake County, Utah.

5. **ARCHITECTURAL AND STRUCTURAL CONTROL COMMITTEE:**

5.1 **COMMITTEE; MEMBERS; QUORUM:** An Architectural and Structural Control Committee (hereinafter "the Committee"), consisting of three (3) members, is hereby created. The Declarant may fill vacancies in the Committee and remove members thereof at its pleasure; provided, however, that after ninety percent (90%) of the Lots in the Subdivision have been sold (either deeded or sold under contract of sale), upon written designation by owners (either by contract to purchase, or in fee) of at least eighty-five percent (85%) of the Lots in the Property, of a person whom such owners desire to make a member of the Committee, the Declarant will appoint such person to the Committee, and if necessary, will remove from the Committee an existing member in order to create a vacancy for the new appointment; provided further, however, that two (2) persons designated by the Declarant shall always remain as members of the Committee if the Declarant or the Committee so desires. The functions of the Committee shall be, in addition to the functions set forth elsewhere in this Declaration, to pass upon, approve or reject any plans or specifications for structures to be erected or remodeled on Lots in the Subdivision, so that all structures shall conform to the restrictions contained herein and to the general development plans of the Declarant and of the Committee, for the improvement and development of the Property and adjacent land. Nothing in this section shall be construed as authorizing or empowering the Committee to waive any restrictions which are set forth in this Declaration except as herein specifically provided. The Committee may act by any two (2) of its members, and any authorization, approval or action taken by the Committee must be in writing signed by a minimum of two (2) members of the Committee.

The initial members of the Committee shall be:

Glen A. Lloyd
511 East 300 South
Salt Lake City, Utah 84111

Christopher F. Robinson
139 East South Temple, Suite 310
Salt Lake City, Utah 84111

Scott R. Turville
139 East South Temple, Suite 310
Salt Lake City, Utah 84111

5.2 **COMMITTEE APPROVAL REQUIRED:** No building or structure, including a tennis court or swimming pool or other facility, shall be erected, remodeled or placed on any Lot without the written approval as to location, height, design, materials and harmony with existing structures first having been obtained from the Committee. No construction of any kind or nature on any of the Lots shall be commenced until either sidewalk or curb grade has been established.

Lot owners may apply for conceptual approval of proposed improvements by submitting to the Committee a written request for such approval together with duplicate preliminary plans consisting of (a) a site plan including topographic information and a footprint of all proposed structures or improvements, including fences, walls, tennis courts, swimming pools, and garages and (b) elevations of the front, rear, and both sides of the structure(s) (hereafter the "Preliminary Plans"). The Committee's approval or disapproval of the Preliminary Plans shall be conceptual only and shall be issued to the owner in writing, signed by a majority of the Committee's members, within fifteen (15) days after the Committee's receipt of the Preliminary Plans and the written application for approval.

The owner shall request final approval of proposed improvements by submitting to the Committee, in duplicate, final "to-be-constructed" plans (including the items contained in the Preliminary Plans, as modified, in final form), a landscaping plan, materials and colors of materials to be used and/or samples, as the case may be, and any information required by Section 6.14 hereof (hereafter the "Final Plans"). The Committee's approval or disapproval of the Final Plans shall be issued to the owner in writing, signed by a majority of the Committee's members within fifteen (15) days after the Committee's receipt of the Final Plans and written application for final approval. The application will be deemed received by the Committee only when accompanied by two complete sets of the Final Plans. The Committee shall not permit any oral modification of the Final Plans, and all Final Plans so submitted will be evaluated based solely on the submitted Final Plans. Any material modification to the Final Plans shall require the approval of the Committee in the same manner as the original Final Plans.

5.3 COMMITTEE DECISION; LIABILITY: The Committee's approval or disapproval shall be in writing signed by a majority of its members. All decisions of the Committee shall be final, and neither the Committee nor its designated representatives shall be subject to any liability therefor. Any errors or omissions in the design of any building or landscaping, and any violations of city ordinances, are the sole responsibility of the Lot owners and/or the Lot owner's designer, architect or builder. The Committee's review of plans shall in no way be concerned with the structural or mechanical integrity or ability of the building(s) or structure(s) or with the architectural or structural soundness thereof.

5.4 ENFORCEMENT: The Lot owners hereby agree that the Committee, Declarant, or any owner of a Lot within the Property or within adjacent plats, may institute in its own name any suit or suits necessary in order to obtain a decree for specific performance or any restraining order necessary to enforce the provisions of this Declaration.

5.5 VARIANCE FROM OR EXCEPTION TO PROVISIONS OF THIS DECLARATION: Subject to the provisions of Section 6.1, which provisions may not be waived, excepted or granted variance from, the Committee may, at any time, after receiving written application stating the basis therefore, grant variance from or exception to any of the requirements of Sections 6.2, 6.3, 6.4, 6.7, 6.10, 6.13, 6.14, 6.16 and 8.7 of this Declaration, if the Committee finds, based upon the application or such further evidence or investigation as it may require that: (a) the strict application of any provision would result in exceptional practical difficulties to, or undue hardship upon, the owner, and (b) strict application of the provision or restriction is unnecessary to carry out the general purpose of this Declaration, and (c) the variance or exception would not be detrimental to any other Lot or potential Lot or the uphill or downhill views of any other Lot or potential Lot within the Property.

6. RESTRICTIONS ON USE; CONSTRUCTION, LOCATION OF IMPROVEMENTS:

6.1 LAND USE: No Lot shall be used except for single-family residential purposes.

6.2 LOT AREA AND WIDTH: No dwelling shall be erected or placed on any Lot if the Lot has a width of less than one-hundred (100) feet at the minimum building set back line nor shall any dwelling be erected or placed on any Lot if the Lot has an area of less than thirteen-thousand (13,000) square feet, except that a dwelling may be erected or placed on all corner and cul-de-sac Lots as shown on the recorded plat, provided that the required front, side and rear yard clearances are maintained and

all zoning and other Salt Lake City requirements are satisfied. No Lot shall be subdivided for the purpose of creating additional building sites.

6.3 **SET BACKS:** Any dwelling house or other structure constructed or situated on any of said Lots shall be in conformity with the minimum "set back" lines which may be fixed by the Declarant, its successors and assigns in the recorded Subdivision plat, or in contracts or deeds to any or all of the Lots created on said property. In any event, and notwithstanding the foregoing sentence, on Lots 201, 202, and 203, the front of each dwelling house shall be located only at a distance of eighteen feet (18') from the front Lot line, which eighteen foot (18') distance shall serve both as the "set back" line and the "build to" line. On all other Lots, no dwelling house shall be located nearer than twenty feet (20') to the front lot line. No dwelling house shall be located nearer than twenty feet (20') to any interior side Lot line. No dwelling shall be located on any Lot nearer than forty feet (40') to the rear Lot line, except that on Lots 201 through 207 and 209, no buildings shall be constructed outside of the "buildable area" as shown on the Subdivision plat. Further, rear yard set backs on any Lot containing any portion of the "Unified Landscaping and Fencing Area" as set forth on the Subdivision plat must further comply with all Salt Lake City requirements for such Lots in this Subdivision, as set forth on the Subdivision plat. Notwithstanding the foregoing provisions of this Section 6.3, placement and construction of any and all building(s), structures, fences, and other facilities on Lots 204, 205, 206, and 207 shall be subject to the additional site specific requirements of Sections 6.14 and 6.15 of this Declaration. The location of all dwellings and any detached garage or other accessory building must be approved in writing by the Committee prior to the start of construction and must comply with all applicable Salt Lake City regulations.

6.4 **BUILDING TYPE:** No buildings shall be erected, altered, or permitted to remain on any Lot other than one detached single-family dwelling and accessory buildings, structures, and facilities approved prior to construction by the Committee. Such dwelling shall not exceed three (3) stories and shall include a private garage for not less than two (2) nor more than four (4) vehicles. Depending upon the design of the dwelling structure, the Committee may, if it deems such action advisable, approve parking inside the dwelling structure for more than four (4) vehicles. Notwithstanding the foregoing, the height of any building, structure or appurtenance thereto shall not be higher than thirty (30) feet above the natural grade of the Lot measured from the low point on the building footprint (excluding any topographic features containing a land surface area of less than one-hundred-fifty [150] square feet), unless approved in writing by the Committee. The Committee, in its sole and exclusive discretion, shall have power to further limit the number of stories and the height of structures as to any or all Lots if it deems such limitation is necessary to preserve the value of other Lots. Every detached single-family dwelling, exclusive of garages and open porches, erected on any Lot shall have a minimum above grade finished living area, excluding garages, of one-thousand-nine-hundred (1,900) square feet for a single level residence or two-thousand-two-hundred (2,200) square feet for a multilevel or two story dwelling; provided, however, that a two story dwelling shall have a minimum of one-thousand-two-hundred (1,200) square feet on the first floor above grade. All construction shall be of new materials, except for "used brick" or "used stone" specifically approved by the Committee. The Committee may at its sole and exclusive discretion, at any time, for the purpose of protecting and/or preserving the character of the Subdivision, change any of the above requirements to be more restrictive and/or impose additional requirements.

6.5 **MOVING OF STRUCTURES:** No structure of any kind shall be moved from any other place to the Property, except for new factory built or manufactured dwellings specifically approved, prior to placement on the lot, by the Committee.

6.6 **TEMPORARY STRUCTURES:** No trailer, basement, tent, shack or other out-building shall be placed upon any Lot or used at any time within the Subdivision as a temporary or permanent residence. Subject to ordinances of Salt Lake City, a trailer or other temporary building may be placed upon a Lot during construction solely for the purpose of facilitating construction management, but not as a residence or for overnight accommodation and shall be removed from the Lot immediately upon completion of construction of the dwelling on the Lot.

6.7 **DILIGENCE IN BUILDING:** When the erection or remodeling of any residence or other structure is once begun, work thereon must be prosecuted diligently and completed within twelve (12) months. No building shall remain incomplete or any remodeling unfinished for any reason for a period in excess of twelve (12) months from the date physical construction commenced.

6.8 **COMPLIANCE WITH ZONING AND BUILDING ORDINANCES OF SALT LAKE CITY:** All excavation work, all foundations, all construction, and all building in the Subdivision shall be done, performed, placed or constructed, as the case may be, in, on or upon said Lots in accordance with the provisions of Salt Lake City Zoning and Building Ordinances in effect when the buildings are constructed or remodeled. This provision shall not affect the applicability of the other provisions hereof.

6.9 **EASEMENTS:** Easements and rights-of-way over portions of said Property have been dedicated as utility and drainage easements for the use of Salt Lake City and public or private utility companies or entities for drainage and/or the erection, construction, maintenance and operation therein or thereon of drainage conduits or pipes and for pipes, conduits, poles, wires and other means of conveying to and from the Lots, gas, electricity, power, water, telephone and telegraph services, sewage and other services for convenience to the public and owners of Lots, and for the flow of storm drainage, as are shown on the Subdivision plat. No structural improvements shall be placed in any such easements.

6.10 **UNDEVELOPABLE AREA; OPEN SPACE EASEMENTS:** The recorded Subdivision plat includes areas identified as "Undevelopable Area". Such areas have been dedicated as perpetual open space and vegetation preservation easements, and within these areas, no structure, or development of any kind shall be placed or permitted to remain, nor shall any activities be undertaken which shall impede the growth of the natural vegetation or interfere with the established slopes or the existing natural condition of the land, or damage or interfere with the established slope ratios, create erosion or sliding problems, or retard the flow of water through any drainage channels. All such Undevelopable Area(s) shall be kept clean and clear of any trash or debris by the owner of the Lot within which such area is located. Formal lawn or garden planting shall be prohibited in the Undevelopable Area(s). Notwithstanding the foregoing, within the Undevelopable Area(s), native plants may be enhanced by irrigation and supplemental planting on a Lot by Lot basis approved in advance by the Committee.

6.11 **PROHIBITION AGAINST SOIL EROSION AND RUNOFF:** It shall be the responsibility of each Lot owner to direct site work relative to the Lot in such a manner as to minimize and control erosion and runoff, both during and after the construction period. Construction and grading shall be conducted and completed in such a manner as to maintain all solid materials, including excavated and/or imported soils, on site and to prevent the movement of earth materials or construction debris onto neighboring property, including public streets, or into the storm drainage system.

6.12 **SOILS, GEOTECHNICAL REQUIREMENTS:** Soils and geotechnical reports for the property have been issued by Dames and Moore and by Sergent, Hauskins & Barkwith. Said reports have been filed with the Salt Lake City Planning Commission. All requirements of Salt Lake City and of these soils and geotechnical reports must be complied with in the construction of all buildings, structures and facilities on all Lots. The design, and subsequently, the actual construction, of all footings and foundations must be certified by a qualified engineer registered with the State of Utah. The Declarant makes no warranties of any kind relative to soils or geotechnical matters.

6.13 **LANDSCAPING; NATURAL VIEWS:** Lots shall be landscaped and planted with trees, lawns, shrubs or other plantings which shall be properly nurtured and maintained or replaced at the owner's expense. Landscaping must be in accordance with the provisions of this Declaration and must be commenced within three (3) months of the date the house is ready for occupancy (or by the succeeding April 30th if a house is ready for occupancy between October 15th and the following April 1st), and must be materially completed within nine (9) months of the date the house is approved for occupancy. Gravel, cinder or other "no plant" areas shall not be permitted.

One of the important and valuable amenities attendant to each Lot is the natural view from the Lot afforded by the location and character of the individual Lot. It is the intention of the Declarant and the provisions of this Declaration that these natural views be maintained, and even enhanced, to the extent possible, while allowing the orderly development of an attractive residential community including appropriate buildings, lawns, trees, shrubs and other landscaping. Therefore, except for one single-family dwelling and permitted garages and accessory buildings, the suitability of which shall be determined by the Committee as herein provided, no buildings or plantings shall be permitted on any Lot which shall inappropriately interfere with natural views from another Lot in the development, including adjacent plats; provided, however, that all landscaping approved by the Committee prior to installation shall be permitted, so long as such landscaping is not in conflict with the following sentence. Trees or other plantings with an overall height of more than thirty (30) feet shall not be permitted to remain without the written approval of the Committee and any Lot owner in the Subdivision plat or in adjacent Subdivision plats whose view may be negatively impacted by the existence of such tree(s). As to this restriction, the Committee may, in its sole and exclusive judgment, determine if any tree(s) are in violation and may, in the event of a violation, request the owner of such tree(s), in writing, to remove or trim such tree(s), whereupon such owner shall do so within thirty (30) days. In the event such owner fails to comply with such written request, the Committee shall be empowered to trim such tree(s), recover payment from the owner for the costs incurred by such action, and record a lien against the owner's Lot to secure the repayment of all such costs. Declarant recognizes that, by its very occurrence, development will diminish and interfere with the original natural views afforded by the location and character of the Property; however, attractive well-planned landscaping and trees add to the overall attractiveness and to the value of a community and largely mitigate the impacts of development. The intent of the restrictions contained in this section are not to prohibit or unnecessarily limit attractive development and landscaping, but rather, to encourage development and landscaping which is in harmony with, or improves upon, the natural vista and enhances the natural appeal of the land.

6.14 UNIFIED LANDSCAPING AND FENCING AREA: Within the "Unified Landscaping and Fencing Area" ("ULFA") identified on the Subdivision plat, no construction, other than fences as set forth in this Declaration, shall be permitted. Each owner of a Lot which includes any portion of the ULFA shall be required, as part of the initial house construction process, to install landscaping within the ULFA. Such landscaping shall conform to the attached Exhibit "A". Such landscaping within the ULFA shall be perpetually maintained by the Lot owner for the purpose of maintaining an attractive unified landscaped vista throughout the entire ULFA when viewed from any area of Salt Lake City. Further, within the ULFA, any fences installed shall be of wrought iron or tubular steel, shall be painted or otherwise finished in black.

6.15 ADDITIONAL SITE SPECIFIC REQUIREMENTS APPLICABLE TO LOTS 204 through 207, inclusive: Notwithstanding any other provisions of this Declaration, Lots 204, 205, 206, and 207 shall also be subject to all of the provisions of this Section 6.15. In the event of any conflict between the provisions of this Section 6.15 and any other provision of this Declaration, the provisions of this Section 6.15 shall prevail:

- a. The dwelling structure shall be located a minimum of twenty feet (20') and an average of twenty-five (25') feet away from the ULFA.
- b. Grading of the Lots during the home building period shall be minimized and confined to the building pad area and access to the building.
- c. The color of all exterior walls and roofs of structures, retaining walls, and accessory structures (except satellite dishes) shall be limited to earthtone colors and hues so as to blend with the predominant colors of the foothills. Satellite dishes shall be black or other dark earthtone hues.
- d. Exterior building materials for all structures and retaining walls shall be brick, stone and/or earthtone stucco.

e. Roof materials for all structures shall be limited to tile, slate, fire retardant wood, or similar materials (which may include architectural asphalt shingles) in brown, black or other earthtone colors/hues.

f. All back and side yard fences shall be constructed of open "see through" wrought iron or tubular steel and shall be painted or otherwise finished in black. At the Lot owner's option, privacy screening outside of the buildable area of the Lot may be provided by evergreen landscaping along fences. Within the buildable area of each Lot, privacy fencing may be solid, so long as the fencing material is similar to and compatible with the material of the exterior walls of the dwelling.

i. Each Lot owner shall landscape all areas within the ULFA with greenery as part of the initial house construction process and such landscaping shall be irrigated with the most water conservative method available. Such landscaping shall be maintained by the Lot owner as set forth in Section 6.14 hereof. Approved landscaping materials for the ULFA are set forth in the attached Exhibit "A".

6.16 ADDITIONAL ARCHITECTURAL GUIDELINES: In addition to those requirements set forth elsewhere in this Declaration, the following architectural guidelines shall apply to all Lots:

a. **Harmony in Building.** The exterior material of all homes shall be either wood, stucco, brick, stone or other material, or a combination thereof, approved by the Committee. The roofing materials shall be either tile, treated wood, architectural asphalt shingles or other fire resistant material approved by the Committee, in approved colors which shall be harmonious with the natural environment.

b. **Fences.** The height of all fences shall be in conformity with Salt Lake City requirements. All fence materials and placement of all fences must be harmonious with the natural environment and approved by the Committee prior to erection. No fence or wall shall be erected on any lot nearer to the street than the minimum building set back line unless similarly approved. All rear yard-line fences must be placed on the rear lot line (as opposed to either the Undevelopable Area limit line or the ULFA line).

On Lots 201 through 207, inclusive: All fences shall be constructed of open "see through" wrought iron or tubular steel and shall be painted or otherwise finished in black. At the Lot owner's option, privacy screening outside of the buildable area of these Lots may be provided by evergreen landscaping along fences. Within the buildable areas of these Lots, privacy fencing may be solid, so long as the fencing material is similar to and compatible with the material of the exterior walls of the dwelling.

c. **Exterior Lighting.** All such exterior lighting shall require approval of the Committee. No floodlighting of structures shall be permitted. Any lighting of yard areas (including recreational areas such as tennis courts) shall be directional in nature and shall not impact, by direct light beam, any other Lot.

d. **Exterior Building Materials.** Exterior building materials for all structures and retaining walls shall be brick, stone, stucco or other material approved by the Committee.

e. **Roof Materials.** Roof materials for all structures shall be limited to tile, slate, fire retardant wood, or similar materials (which may include architectural asphalt shingles) in brown, black or other earthtone colors/hues.

f. **Samples.** Prior to the construction of any building or structure, appropriate building material samples must be provided to the Committee in order to determine if said

materials comply with the terms and intent of this Declaration.

7. **ADDITIONAL COVENANTS:**

7.1 **CONCRETE MAINTENANCE:** Each Lot owner shall at all times keep the curb and gutter and sidewalk in front of his or her Lot in good condition and shall repair or cause Salt Lake City to repair any cracks or breaks in such concrete within a reasonable time, not to exceed sixty (60) days, after receiving notification from the Committee to do so.

8. **NUISANCES:**

8.1 **NOXIOUS OR OFFENSIVE ACTIVITIES:** No noxious or offensive activity shall be carried on upon any Lot within the Subdivision, nor shall anything be done thereon which may be an annoyance or nuisance to the neighborhood. The Committee shall have the authority to determine if an activity is noxious or offensive and constitutes an annoyance or nuisance to the neighborhood.

8.2 **PETS:** No barn, coop, shed, sty or building of any type shall be constructed for the purpose of housing pigs, cows, sheep, goats, horses, rabbits, pigeons, poultry, or any other livestock, and none of the foregoing shall be kept, maintained or permitted at any place within the limits of the Subdivision. A reasonable number of common household pets may be kept. Pets shall at all times be under proper control and supervision of their owners.

8.3 **STORAGE:** No storage of any articles, materials, equipment or vehicles (recreational or otherwise, including but not limited to boats, campers and trailers) of any nature is permitted in the front yard or side yard portion of any Lot or any rear yard (to the extent visible from the street), except that regularly used passenger cars and light pick-up trucks properly licensed and in running order may be parked upon driveway areas. Trailers, trucks, campers, boats, and all types of accessory equipment are permitted to be stored or repaired only in garages.

8.4 **SIGNS:** Except for signs displayed by the Declarant or by homebuilders during the sales and construction period of the development, no signs, other than name plates, shall be displayed to the public view on any Lot except one sign not exceeding four square feet advertising the availability for sale or lease of a Lot and the improvements thereon.

8.5 **DRILLING AND MINING:** There shall be no oil drilling, mining, quarrying or related operations of any kind permitted upon any Lot.

8.6 **RUBBISH:** No rubbish shall be stored or allowed to accumulate on any Lot, except in sanitary containers appropriately shielded from public view.

8.7 **TRANSMITTING AND RECEIVING EQUIPMENT:** No external radio, citizen's band, ham radio or any other transmitting and/or receiving antennas or equipment shall be placed upon any structure or Lot, provided, however, a television antenna or satellite dish receiver may be placed in a yard at a secluded location, at a height and in a manner specifically approved by the Committee in writing prior to erection.

8.8 **CONSTRUCTION DEBRIS:** All Lot owners shall properly maintain their Lots during the construction period so as to insure that no "spoils" or any other debris from construction shall be permitted to blow or otherwise be deposited upon any adjoining Lot or upon any other private or public property or public right-of-way. Lot owners shall take whatever action is necessary to prevent run-off onto, and resultant erosion of, adjoining private property. Lot owners agree that the Declarant or the Committee shall be empowered to clean up any and all "spoils" or construction debris which are located upon any adjoining public or private property resulting from activities of a Lot owner, his builder or any

other person employed or otherwise controlled by a Lot owner, and record a lien against the Lot owner's property to secure the repayment of all sums expended by the Committee or by the Declarant in cleaning up and removing said "spoils" and debris from adjoining public or private property if same is not voluntarily cleaned up and removed by the Lot owner within forty-eight (48) hours of written notice from the Declarant, another Lot owner, or the Committee, identifying the required clean up and removal work.

9. **MANNER OF VOTING:** In voting, pursuant to the provisions of sections 3, 4, or 5.1 hereof, the owners of record of each Lot shall be entitled to one vote for each Lot owned, and any amendment or repeal of this Declaration or change in the membership of the Committee resulting from any such vote shall be evidenced by an appropriate written instrument signed by the required number of Lot owners, which instrument shall be acknowledged and promptly recorded in the County Recorder's Office of the County of Salt Lake, State of Utah.

10. **VIOLATIONS OF RESTRICTIONS, PENALTIES:** Violation of any of the covenants, conditions, restrictions, stipulations, or agreements herein contained shall give the Committee, the Declarant and their successors and assigns, the right to enter upon the Lot on which said violation or breach exists, and to summarily abate and remove at the expense of the owner, any erection, thing or condition that may be or exist thereon contrary to the provisions hereof, without being deemed guilty of trespass. The result of every action or omission whereby any covenant, condition, restriction, stipulation, or agreement of this Declaration is violated, in whole or in part, is hereby declared to be and constitute a nuisance and every remedy allowed by law against a nuisance, either public or private, shall be applicable against such condition. Such remedy shall be deemed cumulative and not exclusive.

11. **GENERAL PROVISIONS:**

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

11.2 **SEVERABILITY:** Invalidation of any one of or any portion of any one of these covenants, conditions, restrictions, stipulations, and agreements by judgment or court order shall in no wise affect any of the other provisions of this Declaration which shall remain in full force and effect.

11.3 **SECTIONS CAPTIONS:** The section captions and phrases as to the contents of particular sections are inserted only as a matter of convenience and for reference and in no way are intended to be part of this Declaration or in any way to define, limit or describe the scope or intent of the particular section to which they refer.

11.4 **ATTORNEYS' FEES AND COSTS:** In the event any claim, demand or lawsuit is made or instituted to enforce any of the provisions contained in this Declaration, the prevailing party shall be entitled to recover its costs and expenses, including reasonable attorneys' fee and all court costs, as determined by the court.

11.5 **RELATIONSHIP TO CITY, COUNTY AND STATE ORDINANCES:** The provisions contained in this Declaration are in addition to the effective laws and ordinances of Salt Lake City, Salt Lake County and the State of Utah. In the event of any conflict between the provisions of this Declaration and the effective laws and ordinances of Salt Lake City, Salt Lake County, and the State of

Utah, the most restrictive provision shall apply.

IN WITNESS WHEREOF, the undersigned has executed this document this 16th
day of April, 1992.

ENSIGN DOWNS, INC.

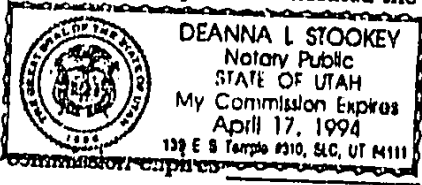
Alexander J. Robinson
Alexander J. Robinson, President

ATTEST:

Christopher F. Robinson
Christopher F. Robinson, Secretary

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

On the 16th day of April, A.D. 1992, personally appeared before me
ALEXANDER J. ROBINSON and CHRISTOPHER F. ROBINSON who being by me duly sworn did say,
each for himself, that he, the said ALEXANDER J. ROBINSON, is the president and that he, the said
CHRISTOPHER F. ROBINSON is the secretary of ENSIGN DOWNS, INC. and that the within and
foregoing instrument was signed on behalf of said corporation by authority of a resolution of its Board of
Directors and said ALEXANDER J. ROBINSON and CHRISTOPHER F. ROBINSON duly acknowledged
to me that said corporation executed the same and that the seal affixed is the seal of said corporation.



Deanna I. Stookey
Notary Public
My residence is: _____

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EXHIBIT "A"

UNIFIED LANDSCAPING AND FENCING AREA PLAN

In an effort to create, protect and enhance the appearance of the slopes included in the "Unified Landscape and Fencing Area" ("ULFA"), the accompanying landscaping criteria have been established. The intent of these criteria is to assist in the development of a uniform planting scheme for all Lots which contain a portion of the ULFA, yet allow for the individuality of each such Lot.

Concept

The Unified Landscaping and Fencing Area ("ULFA") is to be landscaped with tree massings, uniform shrub plantings and ground cover massings. The owner of each Lot shall provide a landscape plan, indicating the proposed planting and irrigation of the ULFA area included in his Lot according to the criteria set forth below. This plan shall also indicate the overall landscaping proposed for the remainder of such Lot as it relates to the ULFA. Such landscaping plan shall be reviewed and approved by the Architectural and Structural Control Committee (the "Committee") prior to installation.

Plant Materials

All plant materials utilized in the landscaping of the ULFA of each Lot shall be of good, average uniform growth, free from irregularities, typical of the species and variety, nursery grown, well formed and uniformly branched. The plant materials shall conform to the "Horticultural Standards" as adopted by the American Association of Nurserymen.

Trees

All trees utilized in the ULFA of each Lot shall be grouped in masses, in irregular and natural forms, spaced from five (5) to twenty-five (25) feet apart. Unless, otherwise approved by the Committee, such trees shall be installed with a minimum of one inch (1") caliper sizes and shall be:

- deciduous trees of a variety that does not exceed thirty-five feet (35') mature height (Maple and Sumac are suggested);
- evergreen trees of a variety that does not exceed forty feet (40') mature height. Such Evergreens shall be utilized only in areas where permanent

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screening and shade will not be a detriment to the immediate and adjacent properties.

The number of trees required for the ULFA for each Lot shall be one (1) tree per four hundred (400) square feet of the ULFA area included within that Lot.

Shrubs

Varieties of shrubs shall cover a minimum of eight percent (8%) of the ULFA area of each Lot. Shrub types proposed shall reach a mature height of three feet (3') minimum, unless otherwise approved by the Committee. Sizes of shrub to be installed shall be two (2) gallon minimum.

Groundcovers

Each Lot owner shall cover the entire ULFA excluding shrub areas with ground cover. Container size of plants, spacing of plants, and/or seeding rates will depend upon the groundcover plant material selected. The plant type, size, and spacing as well as seeding application shall be proposed such that an effective and pleasing aesthetic appearance is achieved.

Irrigation Systems

The entire ULFA area shall be irrigated with spray or stream type sprinkler heads designed with proper coverage to sustain new plant life. It is recommended that sprinkler heads with low precipitations be used in the ULFA. The irrigation plan shall be prepared in accordance with the highest standard in the industry, and shall achieve the most efficient use of water distribution and water conservation.

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