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**DECLARATION OF
RECIPROCAL EASEMENTS AND COVENANTS
(Sterling Village)**

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**DECLARATION OF
RECIPROCAL EASEMENTS AND COVENANTS
(Sterling Village)**

This Declaration of Reciprocal Easements and Covenants ("**Declaration**"), is made and executed as of April 28, _____, 1997, by **STERLING VILLAGE, L.C.**, a Utah limited liability company ("**Declarant**").

RECITALS

A. **Description of Subject Land.** Declarant is the owner of the Subject Land, as defined below, which Subject Land is located in Salt Lake County, State of Utah, consisting of approximately 55 acres, as more particularly described in the attached **Exhibit "A"**.

B. **Improvement of Subject Land.** Declarant proposes to improve the Subject Land as an apartment complex under a general plan or scheme of development and for that purpose Declarant intends to hereby create and establish certain easements, restrictions, and obligations with respect to the Subject Land. The initial improvements to the first phase of such development on the Subject Land shall be made on a parcel of approximately 19.46 acres, as more particularly described in the attached **Exhibit "B-1"** ("**Phase I Parcel**").

C. **Description of Expansion Land.** Declarant or third parties may, subsequent to the execution of this Declaration, develop the remainder of the Subject Land ("**Expansion Land**"), which is presently that part of the Subject Land not included in the Phase I Parcel, for residential use as part of the same general plan or scheme as an integrated apartment complex development including the Phase I Parcel and the Expansion Land in various phases. The portion of the

Expansion Land included in each subsequent development phase hereunder shall be selected by Declarant in its sole discretion and more particularly described in a separate legal description to be hereafter attached hereto as Exhibit "B-2" ("Phase II Parcel"), or Exhibit "B-3" ("Phase III Parcel"), etc.

D. Buildings on Subject Land. Declarant will construct a number of multi-family dwellings ("Apartments") located on the Building Area designated within the Phase I Parcel or a portion thereof, as more particularly described in the attached Site Plan hereto as Exhibit "C-1" ("Phase I Site Plan"), and Declarant will also construct a community recreation center ("Community Center") within Phase I or a portion thereof, as also more particularly described in the Phase I Site Plan. Additional Apartments, and additions to the Community Center, may also be constructed on subsequent Phases.

E. Common Areas. Declarant will make and provide certain roadways, sidewalks, parking areas, recreational facilities, and utility improvements and facilities, including spa, recreation building, barbecue areas, picnic area, trash enclosures and swimming pools, and including grading, surfacing, lighting, striping, planting, installation of sewer, water, electrical, and gas lines in, under, over, and upon the Phase I Parcel and intends for such purposes to set aside certain portions of the Phase I Parcel.

F. Easement and Maintenance Obligations. Declarant desires to establish and create for the benefit of each Building Area, as defined below, certain easements and rights-of-way for access over and upon and certain uses of the Common Areas, as defined below, as well as obligations of

maintenance, repair, and replacement of common facilities as the same are or will be included within the Common Areas.

G. Intent and Purpose. Declarant intends by recording this Declaration, together with the exhibits attached hereto, to subject the Subject Land and all improvements situated or to be situated thereon to the provisions of this Declaration and to impose upon the Subject Land mutually beneficial rights and restrictions for a general plan of improvement for the benefit of the Owners of all interests in the Subject Land, consistent with the operation of a first-class residential apartment complex.

NOW, THEREFORE, Declarant, as the Owner of the Subject Land for itself and its legal representatives, successors, and assigns hereby declares as follows:

ARTICLE I

DEFINITIONS

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

1.02. "Subject Land" shall mean a parcel of approximately 55 acres, located in the City of South Jordan, County of Salt Lake, State of Utah, more particularly described in the attached Exhibit "A".

1.03. "Apartment Complex" shall initially mean the Phase I Parcel contained in the Subject Land and developed as part of the residential apartment complex thereon including all Building Areas and Common Areas thereon. As additional parcels are selected, described, and

identified for development hereunder as the Phase II Parcel, or Phase III Parcel, etc., such additional Parcels shall become part of the Apartment Complex.

1.04. "Expansion Land" shall initially mean the portion of the Subject Land not included in the Phase I Parcel. In the event Declarant, its successors or assigns, at any time determine to acquire and develop or improve any part or all of the Expansion Land for residential use, under a general plan or scheme in connection with the Apartment Complex, that portion of the Expansion Land so developed shall, upon prior written agreement with Declarant, its successors or assigns, in a form recordable upon the Official Records, be redefined for purposes of this Declaration as the Phase II Parcel, or Phase III Parcel, etc., and shall cease to be part of the Expansion Land.

1.05. "Building Areas" shall mean those areas designated for the construction of buildings and appurtenant improvements on the Site Plan.

1.06. "Site Plan" shall mean the Phase I Site Plan attached hereto as Exhibit "C-1", and each additional Site Plan which may be approved and attached hereto from time-to-time pursuant to Section 2.02 herein.

1.07. "Building" shall mean the structure or structures to be constructed within the Building Areas.

1.08. "Common Areas" shall mean the Community Center and those portions of the remainder of the Apartment Complex (excluding the Expansion Land) which are not Building Areas, including common facilities thereon.

1.09. "Owner" shall mean the owner of the fee title to a Parcel.

1.10. "Parcel" shall mean the Phase I Parcel and each additional parcel of land within the Subject Land for which a legal description and Site Plan have been prepared and approved pursuant to Section 2.02 herein, and attached hereto and incorporated herein by Amendment to this Declaration as part of Exhibit "B-2" or "B-3", etc. (for legal description) and as part of Exhibit "C-2" or "C-3", etc. (for Site Plans). Each such Parcel shall be numbered and referred to as Phase II Parcel, Phase III Parcel, etc. As each Parcel is identified on a legal description and a Site Plan attached hereto, it shall cease to be part of the Expansion Land, and shall become part of the Apartment Complex.

1.11. "Responsible Owner" shall mean the Owner of a Parcel consisting of at least ten (10) acres.

1.12. "Official Records" shall mean the records of the Recorder of Salt Lake County, State of Utah.

1.13. "Common Expenses" shall mean these costs and expenses related to the Community Center, as described in Section 7.06.

ARTICLE II

COMMON PLAN

2.01. Development of Subject Land: Easements. Declarant by this Declaration intends to establish a common plan for the development of the Subject Land in order to insure the protection, maintenance, and improvement of the Subject Land, and by this Declaration will establish certain easements, covenants, and reservations upon and subject to which the Subject Land

will be used, held, leased, sold, or conveyed by Declarant, which easements, covenants, and reservations are intended for the benefit of the Subject Land and each Owner of any interest therein, whether present or future, and which shall inure and pass with the Subject Land and each and every interest therein.

2.02. Development of Expansion Land. In the event that Declarant, or its successors and assigns, or third parties by written agreement with Declarant, its successors or assigns, acquires, all or a portion of the Expansion Land for development as residential use property within ten (10) years from the date of recording of this Declaration, the Owners agree to execute an amendment to this Declaration (including for each such addition a legal description to be added as Exhibit "B-2" or "B-3", etc., and a Site Plan, to be added as Exhibit "C-2" or "C-3", etc.) designating such portion of the Expansion Land as an additional phase of the Apartment Complex, subject to and conditioned upon the approval of the Site Plan, including Building Areas and parking and driveway layout, by the Responsible Owners, such approval not to be unreasonably withheld or delayed if such Site Plan is consistent with the Phase I Site Plan attached hereto and the development on Phase I, and the provisions of this Declaration.

ARTICLE III

LAND USE

3.01. Permitted and Prohibited Uses. Except as otherwise provided in this Declaration, the Apartment Complex and any portion thereof shall be used, if at all, only for the construction, operation, and maintenance thereon of residential multi-family dwellings and related facilities common to such residential developments, including the Community Center, and for

Common Areas relating to and necessary to the operation of the foregoing. The restrictions contained in this Article III shall be enforceable pursuant to Article X below. In no event shall any Building Area or portion thereof be used or operated for any use or purpose, and/or by any tenant or other occupant, which is not consistent and compatible with the intention of the parties, at all times during the term of this Declaration, to maintain and operate a first-class apartment complex of a quality equal to that maintained and operated in other first-class apartment complexes in the State of Utah, consistent with the provisions of this Declaration.

3.02. No Interference with Common Areas. No use of the Apartment Complex shall interfere with the use of the Common Areas within the Apartment Complex for the purposes for which they were intended as provided in this Declaration or impede the free flow of vehicular or pedestrian traffic thereon. However, the Owner of each of the Parcels shall have the right to conduct and/or authorize temporary outdoor community activities principally for the benefit of the residents of the Apartment Complex within the Common Areas of the Parcel of such Owner.

3.03. Conformity to Site Plan. The Owners, or their successors and assigns, shall develop the Apartment Complex (if at all) only in the manner shown in the attached Site Plan. Any changes to the attached Site Plan may only be made with the prior written consent of the Responsible Owners, which consent shall not be unreasonably withheld if such changes do not materially and adversely impact upon or affect traffic flow, parking upon and access with respect to the Apartment Complex, the health and safety of its residents, and the operation of the Community Center and of the Apartment Complex as a first-class apartment complex, consistent with the provisions of this Declaration.

ARTICLE IV

RESTRICTIONS ON USE OF BUILDING AREAS

4.01. Building Design and Construction. Each Building or other improvement (including signs) to be constructed, altered, remodeled, repaired, or reconstructed in the Apartment Complex shall be architecturally harmonious and compatible in quality of construction and design with the other Buildings and improvements from time-to-time located in the Apartment Complex. All construction of Buildings and modifications to the exterior of existing Buildings constructed within the Apartment Complex shall be subject to the prior written approval of all Responsible Owners, which approvals shall not be unreasonably withheld. No modifications to the elevation and exterior appearances, including changes of materials and colors, for Buildings in the Apartment Complex shall take place prior to such approval. All construction, alteration, and repair work relative to the Apartment Complex shall be accomplished in an expeditious manner, in compliance with all laws, rules, regulations, orders, permits, approvals, and licenses of governmental authorities having jurisdiction. The Owner undertaking such work shall take all necessary measures to minimize any disruption or inconvenience caused by such work. Such work shall be accomplished in such a manner as to minimize any damage or adverse effect which might be caused by such work to any other party or to the Parcel on which the work is being done or any other Parcel in the Apartment Complex. The Owner undertaking such work shall repair at its own cost and expense any and all damage caused by such work and shall restore the affected portion of the Parcel upon which such work is performed to a condition which is equal to or better than the condition which existed prior to the beginning of such work. In addition, the Owner undertaking such work shall promptly pay

all costs and expenses associated therewith and shall indemnify and hold all Owners harmless from all damages, losses, or claims, including reasonable attorneys fees, attributable to the performance of such work. Except in cases of emergency or the prior consent of the Responsible Owners, all such work shall be undertaken only after giving said Responsible Owners thirty (30) days' prior written notice of the work to be undertaken, the scope and nature of the work, the duration of the work, and the area in which the work is to be performed.

4.02. Building Height. In no event shall any Building in the Apartment Complex be of a height in excess of thirty-eight feet (38') (measured from finished floor to the mid-point of sloping roofs). No Building located in the Apartment Complex shall exceed a height of three (3) stories.

4.03. Automatic Sprinklers. Every Building shall be either equipped with automatic sprinkler systems which meet all the standards of the local organization having jurisdiction, or shall be constructed in such a manner as not to adversely affect the fire rating of any Building built upon any other Building Area. The purpose of this paragraph is to allow Buildings built on each Building Area to be fire-rated as separate and distinct units without deficiency charge.

4.04. Location of Buildings. Subject to the restrictions set forth in this Declaration, all Buildings shall be placed or constructed upon the respective Parcel in the Apartment Complex only within the Building Areas as herein defined. No Buildings shall be placed or constructed in the Apartment Complex within the Common Areas, except for the recreational facilities of the Community Center, and except signs, bumper guards or curbs, landscape planters, lighting standards, and other landscaping or other improvements as may be required under applicable municipal controls

and regulations. In addition, subject to the provisions of Section 4.01, any Owner may construct, install, repair, remove, replace, and maintain sidewalks and walkways, and canopies which may encroach a reasonable distance (not to exceed fifteen feet (15')) over or upon, as the case may be, the sidewalks and walkways contiguous to the Building Area. The Building Area of each Parcel may, but need not be developed to the full extent permitted on the attached Site Plan, as amended; provided, however, except as provided in the preceding sentence, no Building located on any Building Area may be extended beyond the boundaries of the Building Area as shown on the attached Site Plan, nor may a Building be enlarged after it is initially constructed without the prior written consent of all the Responsible Owners, which consent shall not be unreasonably withheld if such additions do not materially and adversely impact upon or affect traffic flow, parking upon and access with respect to the Apartment Complex and the respective Parcels, the health and safety of its residents, and the operation of the Community Center and of the Apartment Complex as a first-class apartment complex.

4.05. Maintenance of Buildings. Except as otherwise provided for herein with regard to the Community Center, the Owner of each Parcel in the Apartment Complex shall maintain, or cause to be maintained, in a safe, clean, and tenantable condition and in good order and repair, consistent in manner and appearance with a first-class apartment complex, all buildings (including garages, storage units and recreational facilities) located on its respective Parcel.

ARTICLE V

COMMON AREAS

5.01. Use of Common Areas. The Common Areas shall be used for the following purposes only:

(a) The parking of passenger vehicles and pedestrian and vehicular traffic, and the use of the Community Center for recreational purposes by Owners and residents of the Apartment Complex and their visitors, invitees and licensees, subject to the Rules and Regulations promulgated hereunder.

(b) The installation, maintenance, and operation of underground separate and/or common and/or public utilities services serving any of the Building Areas, together with and including vaults, manholes, meters, pipelines, valves, hydrants, sprinkler controls, conduits, and related facilities on site, piping and surface facilities for storm drainage and retention and detention ponds, and related facilities, and sewage facilities, all of which (except hydrants) shall, to the extent reasonably possible, be even with or below the surface of the ground, except for transformers, telephone and television junction boxes and meters which will not be underground.

(c) The location of mail boxes, public telephones, newspaper racks, and benches for the comfort and convenience of residents, visitors, invitees, licensees, as the Declarant and its legal representatives, successors, assigns, or grantees may from time-to-time deem appropriate.

(d) The construction, maintenance, repair, replacement, rearrangement, and reconstruction of parking sites or stalls, streets, sidewalks, ramps, driveways, lanes, curbs, gutters, traffic control areas, signals, traffic islands, and traffic and parking lighting facilities.

(e) The construction, maintenance, repair, replacement, and reconstruction of signs (with appropriate underground electrical connections), if otherwise permitted.

(f) The construction, maintenance, repair, replacement, and reconstruction of any landscaped areas including planters, planting boxes, edgers, decorative walls, and sprinklers and valves.

(g) The ingress and egress of residents, visitors, invitees, and licensees (and their vehicles) to and from any public streets adjacent thereto, and the ingress and egress of delivery and service trucks and vehicles to and from the Building Areas or any portion thereof and to and from any public streets adjacent thereto, for the delivery of goods, wares, merchandise, and the rendition of services to Owners and their respective heirs, successors, grantees, assigns, and lessees.

(h) The ingress and egress of any of the persons designated in Paragraph (g) above and their vehicles, to and from any portion of any Building Area and to and from the public streets adjacent thereto.

(i) Subject to adequate provision for the uses set forth in the other paragraphs in this Section 5.01, the rearrangement and reconstruction of loading and unloading areas, and trash, refuse, and garbage container storage areas.

(j) The temporary parking of trucks, tractors, trailers, and other delivery vehicles used in conjunction with the exercise of any of the activities described in Paragraph (g) above.

(k) Subject to the foregoing limitations and restrictions, during the course of construction of any Buildings which may hereafter be constructed upon any of the Building Areas, those portions of the Common Areas immediately adjacent thereto may be used by the Owner of the

Building Area, or, with such Owner's written consent, by the tenant thereof, for the temporary storage of construction materials and equipment used and to be used in connection with the construction of the Building; provided that such use thereof does not unreasonably interfere with the normal use of such Common Areas.

5.02. Prohibited Use of Common Areas. The Common Areas shall not at any time be used for the parking of trucks (other than passenger trucks) or the loading or unloading thereof, except for the parking, loading or unloading of trucks during and in connection with construction of Buildings upon any of the Building Areas and the servicing and supplying of Building Areas; or the construction, repair, or maintenance of parking areas and improvements and facilities herein permitted; upon the condition, however, that any such use shall be confined to the portion of the Common Areas which is reasonably necessary in connection with the matters herein specified and shall be diligently and promptly completed.

5.03. Parking and Associated Areas. All driving aisles, parking aisles, driveways, and parking areas contained within the Common Areas shall be properly graded, leveled, and paved with concrete or asphalt and shall also be properly marked with painted lines for the orderly flow of traffic and the parking of motor vehicles. All parking areas within the Common Areas shall be provided with appropriate access to driving aisles and driveways of adequate width. There shall at all times be provided and maintained on each Parcel at least the minimum number of automobile parking spaces required for each Parcel under the applicable local ordinance relating to parking requirements.

5.04. Lighting. All parking areas within the Common Areas shall be illuminated during darkness.

5.05. No Changes in Traffic Patterns. Following the completion of the construction of the Buildings or similar structures on the Building Areas, the parking layout and patterns of traffic circulation and traffic flow on the Common Areas shall not be changed or altered without the prior written consent of all Responsible Owners, which consent shall not be unreasonably withheld if such changes or alterations do not materially and adversely impact upon or affect traffic flow and safety, parking upon or access with respect to the Apartment Complex and the Parcels, the health and safety of its residents, and the operation of the Community Center and of the Apartment Complex as a first-class apartment complex.

5.06. No Changes in Storm Drainage. Consistent with local construction practice, and subject to applicable local building codes, storm drainage for the Apartment Complex is intended to be provided and controlled by underground storm drainage, and by surface structure, including grading, paving, curbs, curb cuts, berms, detention ponds and other surface improvements and controls. For this purpose, following the completion of the construction of parking lots, curbs, gutters and other structures on the Common Areas, the surface grade and the location and drainage functions of such structures on the Common Areas shall not be changed or altered without the prior written consent of all Responsible Owners, which consent shall not be unreasonably withheld if such changes or alterations do not materially adversely impact upon or affect the function or maintenance of the storm drainage system for the Apartment Complex or any Parcel.

changes or alterations do not materially adversely impact upon or affect the function or maintenance of the storm drainage system for the Apartment Complex or any Parcel.

ARTICLE VI

EASEMENTS

6.01. Grant of Reciprocal Easements. Declarant hereby grants to each and every Owner and their respective successors, assigns, mortgagees, lessees, sublessees, employees, agents, tenants, licensees, and invitees, and declares for the benefit of each of the respective Parcels within the Apartment Complex, permanent, mutual, reciprocal, and non-exclusive easements and rights to use the Common Areas for the purposes for which they are provided and intended, including, but not limited to:

(a) ingress, egress, access, and parking for vehicular or pedestrian traffic, upon or across the parking areas, entrances, exits, driveways, walks, or service drives located within the Common Areas, and

(b) the use of the Community Center and its recreational and exercise and community gathering facilities principally for the benefit of residents of the Apartment Complex and their guests, subject to applicable rules and regulations as provided elsewhere herein; and

(c) the use of storm drainage and retention facilities, landscaping, public rest rooms, if any, and other public facilities, directional signs and other areas intended for common use.

6.02. Separate Utility Lines. Declarant hereby grants to each and every Owner, respectively, nonexclusive easements in, to, over, under, and across the Common Areas of the respective Parcels, provided that no such easement shall encroach closer than fifteen feet to any

water and gas mains, electrical power lines, cable television and telephone lines and other utility lines, all of such sewers, drains, mains, and lines to be underground, serving the respective Parcels of each of the Owners. However, the easement for separate utility lines provided herein shall be limited to such portion of the Common Areas as necessary to provide reasonable utility services to each Parcel together with such area on both sides of the utility line as is the ordinary custom and practice in the industry to provide for the installation, operation, and maintenance of the utility. The easements shall be defined and placed of record in conjunction with installation. All separate utility easements shall, to the extent possible, follow the most direct route to tie into common transmission lines except where such direct route would unnecessarily disrupt or damage Buildings and/or structures located upon the Common Areas or Building Areas.

6.03. Common Utility Lines. Declarant hereby grants to each and every Owner, respectively, nonexclusive easements in, to, over, under, and across the Common Areas of the respective Parcels, provided that no such easement shall encroach closer than fifteen feet to any boundary of a Building Area within said Parcel without the prior written consent of the Owner thereof, for the installation, operation, flow and passage, use, maintenance, repair, relocation and removal of sanitary sewers, surface and subsurface storm drainage, retention and detention ponds, water and gas mains, electrical power lines, cable television and telephone lines and other utility lines, all of such sewers, drains, mains, and lines to be underground, for the service of Common Areas and for use in common with other parties. Notwithstanding the foregoing, however, no Owner may connect to any existing common utility line if such connection or the reasonably anticipated increase in use of the common line resulting from such connection shall cause the total burden on

such common utility line to exceed its reasonable capacity. Declarant hereby further reserves to each and every Owner the right to grant such easements in, to, over, under, and across its respective Parcels, for the purposes hereinabove enumerated, to such other parties as may from time-to-time be entitled thereto. Easements identifying the exact location and use of such common utility lines and facilities shall be placed of record in conjunction with the installation of the utility. Such common utility facilities shall specifically include reciprocal, non-exclusive easements for installation, operation and maintenance of surface and sub-surface control of storm water runoff and drainage for the exclusive benefit of the Parcels included in the Apartment Complex.

6.04. Location of Utility Easements. Except for easements which are of public record in the Official Records on the date this Declaration is recorded, the location of all utility easements of the character described in this Article VI shall be subject to the prior written approval of the Owner in, to, over, and under whose Parcel the same is to be located. If requested by any utility company or any Owner upon completion of construction of such utility facilities the Owners of Parcels affected thereby shall join in the execution of an agreement, in recordable form, appropriately identifying the type and location of such respective utility facility.

6.05. Installation, Maintenance and Repair. The grantee of any of the utility easements referred to in this Article VI shall be responsible as between the grantor and the grantee thereof for the installation, maintenance, and repair of all sanitary sewers, storm drains, pipes and conduits, mains and lines and related equipment installed pursuant to such grant. Any such maintenance and repair shall be performed only after two (2) weeks notice to the grantor of the grantee's intention to do such work, except in the case of emergency, and any such work shall be

done without cost or expense to the grantor, and in such manner as to cause as little disturbance in the use of the Common Area, Building Area, or Parcel as may be practicable under the circumstances.

6.06. Relocation. At any time, the grantor of any of the utility easements granted pursuant to this Article VI shall have the right to relocate on the land of the grantor any such sewers, drains, mains, and lines and related equipment then located on the land of the grantor; provided that such relocation shall be performed only after thirty (30) days notice of the grantor's intention to so relocate shall be given to the grantee, and such relocation:

- (a) shall not interfere with or diminish the utility services to the grantee;
- (b) shall not reduce or unreasonably impair the usefulness or function of such utility;
- (c) shall be performed without cost or expense to grantee; and

(d) shall be made in accordance with and subject to applicable municipal ordinances, building codes, regulatory review, etc. Notwithstanding such relocation, maintenance shall be the obligation of the grantee; provided that if there shall be any material increase in such cost, the grantor shall bear such excess.

6.07. Use of Easements. The easements and rights-of-way, established by this Article VI, shall be for the benefit of and restricted solely to the use of the Owners and their respective successors and assigns, the tenants of the Owners, mortgagees under mortgages covering any of the Subject Land, beneficiaries and trustees under deeds of trust covering any of the Subject Land and to their agents, tenants, employees, licensees, and business invitees and the same is not

intended and shall not be construed as creating any rights in or for the benefit of the general public; provided further that the grant herein is subject to the provisions of Section 6.08 below.

6.08. Right to Close Common Areas. Declarant for itself and the then Owners of any portion of the Common Areas reserves the right to close temporarily all or any portion of the Common Areas to such extent as in the opinion of Declarant or the then Owners of the Common Areas is legally necessary and sufficient to prevent the dedication thereof or any accrual of any rights therein in any person other than as created hereby or in the public generally.

6.09. No Further Easements. No Owner of any real property interest in the Subject Land shall grant any easement, right-of-way, or right of use with respect to any of the Common Areas, except as provided herein. Nor shall any such person grant any easement, right-of-way, or right of use with respect to any Building Area, the fee ownership of which is not vested in said party.

ARTICLE VII

CERTAIN RIGHTS AND OBLIGATIONS OF THE DECLARANT AND OWNERS

7.01. The Common Areas.

(a) The Declarant shall manage, maintain and control the Community Center portion of the Common Areas, and shall have the power to make assessments for the cost thereof under Section 7.06, and the power to make rules and regulations pertaining thereto, as described below.

(b) Each Owner shall be responsible, at its own expense, for the exclusive management and control of the Common Areas and all improvements thereon (excluding any and all portions of the Community Center) within its respective Parcel and shall keep the same in a

good, clean, attractive, safe and sanitary condition, order and repair. The Owner shall be responsible for the maintenance and repair of the Common Areas (excluding the Community Center) within its Parcel, including, without limitation, painting thereof, snow and ice removal, repair and replacement of surfacing and maintenance of landscaping, walkways, and driveways. In particular, the Owner shall be responsible for the maintenance of the roads and associated improvements located or to be located in whole or in part upon the Common Areas within its Parcel.

(c) If any Owner fails to manage, maintain or control the Common Areas (other than the Community Center) on such Owner's Parcel, or perform its other obligations under this Section 7.01, then the Declarant may, at its option and without obligation, undertake to perform such obligations on behalf of such Owner. The Owner shall reimburse the Declarant upon demand for all costs incurred for such purpose, including Declarant's actual out-of-pocket costs, plus a reasonable fee for Declarant's overhead and management services related thereto, plus interest at the rate of Eighteen Percent (18%) per annum until paid. The Declarant may make assessments in the manner provided in Section 7.06 in order to obtain funds for this purpose. Neither the right of Declarant to perform for Owner hereunder, nor any such performance, shall relieve Owner of its continuing obligation under this Section 7.01.

7.02. Liability Insurance. Except to the extent maintained and paid by the Declarant pursuant to Section 7.06, each Owner shall, at all times, maintain, or cause to be maintained, general public liability insurance against claims for personal injury or death and property damage occasioned by accident occurring upon, in or on the Common Areas within the respective Parcel of each Owner, such insurance in each case to afford protection to the limits as determined adequate by each Owner

and consented to by the Declarant, or its successors or assigns, which consent shall not be unreasonably withheld. Each Owner, with the consent of the Declarant or its successors or assigns, which consent shall not be unreasonably withheld, may from time to time increase or decrease the amounts of insurance maintained hereunder to reflect any actual and substantial decrease in the value of the dollar or increase in risk occurring after the date of this Declaration.

7.03. Taxes. Except to the extent paid by the Declarant pursuant to Section 7.06, each Owner shall pay, or cause to be paid, directly to the tax assessor, prior to delinquency, all real property taxes and other special taxes and assessments which may be levied or assessed against the Parcel owned by said Owner, including the portion of the Common Area within such Owner's Parcel, and including any assessment attributable to appurtenant interests created by this Declaration, subject to the right of any party to contest such taxes and assessments in the manner provided by law.

7.04. Rules and Regulations. The Declarant and its successors and assigns, with the consent of the Responsible Owners, may make reasonable rules and regulations governing the use of the Common Areas, including the Community Center, which rules and regulations shall be consistent with the rights and duties established in this Declaration. The Declarant may take judicial action against any Owner to enforce compliance with such rules and regulations or other obligations of Owners arising hereunder, or to obtain damages for noncompliance therewith, as permitted by law. In the event of such judicial action, the Declarant shall be entitled to recover its costs, including reasonable attorneys' fees, as provided in Section 10.04 hereof.

7.05. Implied Rights. The Declarant may exercise any right or privilege given to it expressly by this Declaration or by law, and every other right or privilege reasonably implied from

the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

7.06. Assessments.

(a) Agreement to Pay Assessments. The Declarant for each Parcel owned by it within the Subject Land and each Owner of any portion of the Subject Land by the acceptance of instruments of conveyance and transfer therefor, whether or not it be so expressed in said instruments, shall be deemed to covenant and agree with each other and with the Declarant to pay to the Declarant all assessments made by the Declarant for the maintenance and operation of the Community Center and other purposes provided in this Declaration. Such assessments shall be fixed, established and collected from time to time as provided in this Declaration.

(1) From and after January 1 of the year immediately following the conveyance of any portion of the Subject Land to an Owner other than the Declarant, the maximum annual assessment may be increased each year by up to fifteen percent (15%) above the maximum assessment for the previous year without a vote of the Owners.

(2) From and after January 1 of the year immediately following the conveyance of any portion of the Subject Land to an Owner other than the Declarant, maximum annual assessment may be increased above fifteen percent (15%) only by a vote of the Owners of at least sixty-seven percent (67%) of the residential units in the Apartment Complex for which Certificates of Occupancy (temporary or permanent) have been issued.

(3) The Declarant may fix the annual assessment at an amount not in excess of the maximum.

(b) Annual Assessments. Following the conveyance of any portion of the Subject Land to an Owner other than Declarant, annual assessments shall be computed and assessed against all Parcels in the Subject Land, excluding the Expansion Land, for all cash requirements related to the operation and maintenance of the Community Center (excluding its purchase or financing).

(1) Common Expense. Annual assessments shall be based upon advance estimates of the cash requirements to provide for payment of all estimated expenses arising out of or connected with the maintenance and operation of the Community Center. Such estimated expenses may include, without limitation, the following: expenses of management; operation and maintenance costs of the swimming pool; real and personal property taxes and special assessments on the Community Center; premiums for all insurance that the Owners of the Community Center are hereunder required or permitted to maintain for the Community Center; repairs and maintenance of the Community Center; landscaping of the Community Center; wages of Community Center employees, including fees for a Manager to the extent attributable to the operation and maintenance of the Community Center; utility charges; legal and accounting fees; any deficit remaining from a previous period; creation of an adequate contingency reserve, major maintenance reserve and/or sinking fund; creation of an adequate reserve fund for maintenance, repairs, and replacement of those Community Center facilities that must be replaced on a periodic basis; and any other expenses and liabilities which may be incurred by the Owners of the

Community Center for the benefit of the residents of the Apartment Complex under or by reason of this Declaration. The aggregate of all such items shall constitute the Common Expenses, and all funds received from assessments under this Section 7.06 shall be part of the Common Expense Fund.

(2) Apportionment. Common Expenses shall be apportioned among and assessed to all Owners of Parcels within the Subject Land (excluding the Expansion Land) in accordance with the number of residential units of each Owner for which Certificates of Occupancy (temporary or permanent) have been issued.

(3) Annual Budget. Annual assessments shall be determined on the basis of a fiscal year beginning January 1 and ending December 31 next following, provided the first fiscal year shall begin on the date of the first conveyance of any portion of the Subject Land to any Owner other than the Declarant. On or before December 1 of each year thereafter, the Declarant shall prepare and furnish to each Owner, or cause to be prepared and furnished to each Owner, an operating budget for the upcoming fiscal year. The budget shall itemize the estimated expenses of Common Expense for such fiscal year, anticipated receipts (if any) and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the annual assessment for the upcoming fiscal year and as the major guideline under which the Community Center shall be operated during such annual period.

(4) Notice and Payment. Except with respect to the first fiscal year, the Declarant shall notify each Owner in writing as to the amount of the annual assessment

against such Owner's Parcel on or before December 1 each year for the fiscal year beginning on January 1 next following. Except as otherwise provided by the Declarant, each annual assessment shall be payable in twelve equal monthly installments, one such installment due on the first day of each calendar month during the fiscal year to which the assessment relates; provided, however, the annual assessment for the first fiscal year shall be based upon such portion of the first fiscal year. All unpaid installments of any annual assessment shall bear interest at the rate established by the Declarant not to exceed eighteen percent (18%) per annum from fifteen (15) days after the date each such installment became due until paid. The Declarant shall also have the right to assess a late fee of up to five percent (5%) of any assessment installment not paid within fifteen (15) days following the due date thereof. In addition, in the event that any installment of the annual assessment is not paid within fifteen (15) days of the date such installment becomes due, the Declarant may, at its option, and upon fifteen (15) days prior written notice to the Owner, accelerate the due date for all remaining unpaid installments of the annual assessment for the remainder of the fiscal year and all accrued but unpaid interest thereon. Payment of the annual assessment installments so accelerated shall be due at the expiration of said fifteen (15) day notice period and interest shall accrue on the entire sum at the rate established by the Declarant not to exceed eighteen percent (18%) per annum from such date until paid in full. The failure of the Declarant to give timely notice of any annual assessment as provided herein shall not be deemed a waiver or modification in any respect

of the provisions of this Declaration, or a release of any Owner from the obligation to pay such assessment or any other assessment.

(5) Inadequate Funds. In the event that the Common Expense Fund proves inadequate for the purposes for which such Fund is established hereunder, at any time and for whatever reason, including nonpayment of any Owner's assessment, the Declarant may levy additional assessments in accordance with the procedure set forth in Section 7.06(c) below, except that the vote therein specified shall be unnecessary.

(c) Special Assessments. In addition to the annual assessments authorized by this Article, the Declarant may levy, at any time and from time to time, upon the affirmative vote of Owners of at least sixty-seven percent (67%) of the residential units in the Apartment Complex for which Certificates of Occupancy (temporary or permanent) have been issued, special assessments, payable over such periods as the Declarant may determine, for the purpose of defraying, in whole or in part, the cost of any conversion, expansion, construction or reconstruction, unexpected repair or replacement of the Community Center or any part thereof, or for any other Common Expenses. This Section shall not be construed as an independent source of authority for the Declarant to incur expenses but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections or Articles hereof. Any amounts assessed pursuant hereto shall be assessed to Owners in accordance with the Section 7.06(b) above. Notice in writing of the amount of each such special assessment and the time for payment thereof shall be given promptly to the Owners; no payment shall be due less than fifteen (15) days after such notice shall have been given. All unpaid portions of any special assessment shall bear interest at

the rate established by the Declarant not to exceed eighteen percent (18%) per annum from the date such portions become due until paid. All funds received from assessments under this Section 7.06(c) shall be part of the Common Expense Fund. The provisions of this Section 7.06(c) are not intended to preclude or limit the assessment, collection or use of annual assessments for the aforesaid purposes.

(d) Lien for Assessments. All sums assessed to Owners pursuant to the provisions of this Article Seven, together with penalties and interest thereon as provided herein, shall be secured by a lien on all Parcels of such Owner in favor of the Declarant. To evidence a lien for sums assessed pursuant to this Article Seven, the Declarant may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner and a description of the Parcel subject to the lien. Such a notice shall be signed and acknowledged by a duly authorized officer of the Declarant and may be recorded in the Official Records. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by sale or foreclosure conducted in accordance with the provisions of law applicable to the exercise of powers of sale or judicial foreclosure of deeds of trust or mortgages or in any other manner permitted by law. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees), and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Declarant any assessment which shall become due during the period of foreclosure, and all such assessments shall be secured by the lien being foreclosed. The

Declarant shall have the right and power to bid in at any foreclosure sale and to hold, lease, mortgage or convey the subject Parcel.

(e) Personal Obligation of Owner. The amount of any annual or special assessment against any Parcel shall be the personal obligation of the Owner of such Parcel to the Declarant. Suit to recover a money judgment for such personal obligation shall be maintainable by the Declarant without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of such Owner's Parcel or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment of unpaid assessment hereunder, the involved Owner shall pay the costs and expenses incurred by the Declarant in connection therewith, including reasonable attorneys' fees.

(f) Personal Liability of Purchaser. The personal obligation of an Owner to pay unpaid assessments against such Owner's Parcels as described in this Section 7.06 shall not pass to successors in title unless assumed by them. Provided, however, a lien to secure unpaid assessments shall not be affected by the sale or transfer of the Parcel unless such sale or transfer occurs by foreclosure by a first mortgagee or first trust deed beneficiary, in which case the foreclosure will extinguish the lien for any assessments that were payable before the foreclosure sale, but shall not relieve any subsequent Owner from paying further assessments.

(g) Reserves and Working Capital. In addition to its day-to-day operating funds for the Community Center, following the conveyance of any portion of the Subject Land to an Owner other than Declarant, the Declarant shall establish the following funds:

(1) Reserve Fund. The Declarant shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Community Center the Declarant is obligated to maintain, repair or replace. The reserve fund shall be maintained out of regular assessments for Common Expenses.

(2) Working Capital Fund. The Declarant shall establish and maintain for the Community Center, a working capital fund equal to at least two monthly installments of the annual assessment of each Parcel. Each Parcel's share of the working capital fund must be collected and transferred to the Declarant at the time of the closing of sale of that Parcel. The working capital fund must be maintained in a segregated account for the use and benefit of the Declarant for the purposes described in this Section 7.06. The purpose of the working capital fund is to ensure that the Declarant will have cash available to meet unforeseen expenditures or to acquire additional equipment or services for the Community Center as deemed necessary or desirable by the Declarant. Amounts paid into the working capital fund are not to be considered advance payments of any regular assessment. The working capital fund shall be transferred to the Successor Declarant for deposit to a segregated fund when control of the Community Center is transferred to a Successor Declarant. The Declarant shall not use the working capital fund to defray any of its expenses, reserve contributions, or construction costs or to make up any budget deficits.

(h) Evidence of Payment of Annual and Special Assessments. Upon receipt of a written request by an Owner or any other person, the Declarant within a reasonable period of time thereafter shall issue to such Owner or other person a written certificate stating (a) that all annual

and special assessments (including interest, costs and attorneys' fees, if any, as provided in this Section 7.06) have been paid with respect to any specified Parcel as of the date of such certificate, or (b) if all annual and special assessments have not been paid, the amount of such annual and special assessments (including interest, costs and attorneys' fees, if any) due and payable as of such date. The Declarant may make a reasonable charge for the issuance of such certificates, which charges must be paid at the time the request for any such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matter therein stated as against any bona fide purchaser of, or mortgagee or trust deed beneficiary on, the Parcel in question.

(i) Suspension of Rights of Use. During such period of time as a lien as described in Section 7.06(e) above is or may rightfully be filed against any Parcel, the Declarant may, in its discretion, deny or limit any or all rights of use of the Community Center by residents of the affected Parcel.

ARTICLE VIII

CONDEMNATION AND CASUALTY

8.01. Condemnation. If at any time or times all or any part of the Subject Land shall be taken or condemned by any public authority under power of eminent domain, the provisions of this Article VIII shall apply. A voluntary sale or conveyance of all or any part of the Subject Land in lieu of condemnation but under threat of condemnation, shall be deemed to be a taking by eminent domain.

8.02. Proceeds. All compensation, damages, and other proceeds from any such taking by power of eminent domain ("Condemnation Award") attributable to the value of any land within the Common Areas shall be payable only to the Owner thereof and no claim thereon shall be made by other Owners; provided, however, that all Owners may file collateral claims with the condemning authority over and above the value of the land and improvements located within the Common Areas so taken to the extent of any damage suffered by their respective Building Areas resulting from severance of the appurtenant portions of the Common Areas so taken. The Owner of the portions of the Common Areas so condemned shall promptly repair and restore the remaining portion of the Common Areas so owned by such Owner as nearly as practicable to the condition of the same immediately prior to the condemnation and without contribution from any other Owner; provided, however, that the obligation to repair or reconstruct shall be limited such that the cost thereof shall not exceed the amount of the Condemnation Award payable to the Owner of the Common Areas so condemned, less said Owner's costs, including, but not limited to, attorneys' fees and court costs arising out of the condemnation proceedings.

8.03. Casualty. In the event of destruction or damage from fire or any other casualty to any buildings or improvements erected on the Subject Land, the Owner having its buildings or improvements destroyed or damaged, at its sole cost and expense, shall within six (6) months of the date of such fire or casualty have: (i) started to rebuild or repair the same; or (ii) removed all debris and leveled and landscaped or paved the same. If any Owner elects to rebuild or repair, it shall do so to at least substantially the same size and condition as such improvements were in immediately preceding such fire or casualty, and shall do so within one (1) year of the date

of such fire or casualty. If the Owner elects to remove the debris and level the buildings or improvements destroyed or damaged, the same shall be leveled and landscaped or paved so that the affected area conforms substantially to the Common Areas surrounding it. The Owner shall retain the right to rebuild such building or improvement at a later date subject to the terms of this Declaration. Anything in this Section 8.03 notwithstanding, if such event shall destroy five percent (5%) or less of the ground floor area of such building or structure, then the Owner of such building or structure shall have no option to level the building and shall be required to rebuild or repair the same in accordance with the first sentence of this Section 8.03.

8.04. Casualty Insurance. Each Owner shall, commencing with the start of construction of any Building on its Parcel, keep or cause to be kept all of the Buildings constructed on its Parcel insured against loss or damage by fire, wind storm, hail, explosions, damage from aircraft and vehicles and smoke damage and such other risks as are from time to time included in "extended coverage" endorsements in the State of Utah in an amount sufficient to restore the same to or replace them with buildings and improvements of comparable size and of at least the quality as originally designed.

8.05. Waiver of Subrogation. Each Owner, for itself and, to the extent it is legally possible for it to do so, on behalf of its fire and extended coverage insurer or on its own behalf to the extent it is acting as a self-insurer as permitted hereunder, hereby releases the other Owner(s) and its respective tenants and occupants from any liability for (a) any loss or damage to the property of each Owner and its respective tenants and occupants located upon or in the Subject Land, (b) any loss or damage to buildings or other improvements on the Subject Land or the contents thereof,

and/or (c) any other direct or indirect loss or damage caused by fire or other risks, which loss or damage under subparagraph (a), (b) and/or (c) of this subsection is of the type generally covered by standard fire and extended coverage insurance in the State of Utah. Each Owner shall, to the extent such insurance endorsement is available, obtain for the benefit of the other Owners and their respective tenants and occupants a waiver of any right of subrogation which the fire and extended coverage insurer of such Owner may acquire against such other Owners and their respective tenants and occupants by virtue of the payment of any such loss covered by such insurance. The foregoing waiver and release shall be operative only so long as the same shall not preclude any Owner from obtaining insurance, and shall have no effect to the extent that it diminishes, reduces or impairs the liability of any insurer or the scope of any coverage under any policy applicable to any portion of the Subject Land or any buildings therein.

ARTICLE IX

APPROVALS

9.01. ~~Request; Response.~~ Upon receipt by an Owner of a request for approval, such Owner shall, within thirty (30) days after receipt of such request for approval, notify in writing the party making such request of any objections thereto (such objections to be specifically stated); and such party may within fifteen (15) days thereafter resubmit its request for approval rectifying any such objections to the appropriate Owner. The Owner shall then have an additional fifteen (15) days after receipt of said revisions to approve or disapprove same. Failure to give any written notice of disapproval within the periods provided for above shall constitute approval thereof by such

Owner, provided that any such request for approval states prominently in writing that failure to respond constitutes approval.

ARTICLE X
ENFORCEMENT

10.01. Standing to Enforce. The right to enforce the terms, restrictions, covenants, and easements contained herein shall belong only to the Declarant its successors or assigns, and the Owners, and to mortgagees under recorded mortgages covering any of the Subject Land, and beneficiaries and trustees under deeds of trust covering any of the Subject Land of the Owners.

10.02. Damages, Injunction. In the event of any violation or threatened violation of any of the terms, restrictions, or covenants contained herein, any person entitled to enforce this Declaration will have the right to collect damages for such violation from the date thereof until the same shall be cured, and the right to injunctive relief and any other appropriate remedies available at law or in equity or otherwise, including interest at the Prime Rate as reported in the Wall Street Journal plus two percent (2%) or the applicable legal rate, whichever is the greatest allowed by law, on reasonable sums advanced to cure any default hereunder

10.03. Act of God, Etc. If performance of any act or obligation of any party is prevented or delayed by an act of God, war, labor disputes, or other cause or causes beyond the reasonable control of such party, the time for the performance of the act or obligation shall be extended for the period that such act or performance is actually delayed or prevented by any such cause.

10.04. Attorney's Fees. In the event that any suit is brought for the enforcement of any provision of this Declaration or as the result of any alleged breach thereof or for a declaration of rights and duties hereunder, the successful party or parties to such suit shall be entitled to collect reasonable attorneys' fees and court costs from the losing party or parties; and any judgment or decree rendered shall include an award thereof. Such fees and costs shall specifically include attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), all appearances in bankruptcy or insolvency proceedings, fees and expenses incurred in connection with the appointment of a receiver, appeals and any anticipated post-judgment collection services, and all court costs and such additional fees as may be directed by the court.

10.05. No Termination. It is expressly agreed that no breach or violation of this Declaration will terminate this Declaration, but this limitation will not affect, in any manner, any other rights or remedies for any breach of this Declaration.

10.06. First Liens; Foreclosure. A breach or violation of any of the terms, restrictions, or covenants of this Declaration will not defeat or render invalid the lien of any first mortgage or first deed of trust, made in good faith and for value, or any mortgages securing construction financing on any Parcel; but such terms, covenants, and restrictions will be binding on and be effective against anyone whose title to any portion of the Subject Property is acquired by foreclosure, trustee's sale, or otherwise.

10.07. Cumulative Remedies. The specified remedies to which any person entitled to enforce this Declaration may resort under the terms of this Declaration are cumulative and are not

intended to be exclusive of any other remedies or means of redress to which any person entitled to enforce this Declaration may be lawfully entitled in case of any breach or threatened breach of any provision of this Declaration. Failure to insist in any one or more cases upon the strict performance of any of the covenants of this Declaration or to exercise any remedy herein contained shall not be construed as a waiver or a relinquishment for the future of such covenant or remedy.

ARTICLE XI

DURATION

11.01. Duration. This Declaration and each easement, covenant, condition, and restriction hereby created shall continue for a period of ninety-nine (99) years from the date hereof, unless terminated, modified, or amended by an instrument executed as herein set forth and duly recorded in the Official Records.

ARTICLE XII

AMENDMENTS AND MODIFICATIONS

12.01. Consent to Modification. Except as otherwise specifically set forth in this Declaration, this Declaration and any provision, restriction, covenant, or easement contained herein may be terminated, extended, modified, or amended only with the written consent of all of the then Owners; provided, however, that no termination, extension, modification or amendment of this Declaration shall be effective unless a written instrument setting forth the terms thereof has been executed as herein provided, acknowledged, and recorded in the Official Records. Notwithstanding the foregoing, all of the then Responsible Owners may amend, modify, extend or terminate any provision, restriction, covenant or easement contained herein without the consent of the other

Owners as long as the Owners of the Parcels who do not consent are not materially adversely affected. Notwithstanding anything to the contrary contained herein, all of the Responsible Owners may create, amend or modify the legal description for any Parcel within the Subject Land, and create, amend or modify the Site Plan for any Parcel of the Subject Land, all without the consent of the other Owners, and without the consent of any mortgagee, trust deed beneficiary, or other lienholder ("Lienholders"), so long as the resulting Site Plan does not unreasonably deny access to the portion of the Subject Land in which such other Owners or Lienholders may have an interest.

12.02. No Consent of Other Persons. Anything in this Article XII to the contrary notwithstanding, no tenant or any other person having any interest in the Subject Land other than those persons specifically designated in Section 12.01 above need consent to any termination, extension, modification, or amendment of this Declaration or any part hereof.

ARTICLE XIII

MISCELLANEOUS

13.01. Not a Public Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of any portion of the Subject Land to the general public or for the general public or for any public purpose whatsoever, it being the intention that this Declaration will be strictly limited to and for the purpose expressed herein.

13.02. Severability. If any clause, sentence, or other portion of the terms, covenants, conditions, easements or restrictions of this Declaration becomes illegal, null, or void for any reason, or is held by any Court of competent jurisdiction to be so, the remaining portions shall remain in full force and effect.

13.03. Dominant and Servient Estates. Each and all of the easements and rights granted or created herein are appurtenances to the applicable portions of the Subject Land and none of such easements and rights may be transferred, assigned, or encumbered except as an appurtenance to such portions. For the purposes of such easements and rights, the property benefitted shall constitute the dominant estate, and the particular areas of the Subject Land which respectively are burdened by such easements and rights shall constitute the servient estate.

13.04. Covenants Run with Land. Each and all of the covenants, restrictions, easements and provisions contained in this Declaration (whether affirmative or negative in nature)

(a) are made for the direct, mutual, and reciprocal benefit of each Parcel described herein;

(b) will create mutual equitable servitudes upon each Parcel in the Subject Land in favor of the Subject Land;

(c) will bind every person having any fee, leasehold, or other interest in any portion of the Subject Land at any time or from time-to-time to the extent that such portion is affected or bound by the covenant, restriction, easement or provision which is to be performed on such portion; and

(d) will inure to the benefit of the Declarant and its successors and assigns as to the respective Parcels in the Subject Land, and to the benefit of mortgagees under mortgages covering the Subject Land and beneficiaries and trustees under trust deeds covering the Subject Land.

13.05. Compliance with Laws. All Owners shall comply promptly with all federal, state, and municipal statutes and ordinances, and with all regulations, orders, and directives of

appropriate governmental agencies pertaining to the use of occupancy of the Subject Land, as such statutes, ordinances, regulations, orders, and directives now exist or may hereafter provide.

13.06. Benefit and Burden. The terms, covenants, restrictions, easements and conditions contained herein shall inure to the benefit of and shall be binding upon the Declarant, all Owners, and any other person having any interest in the Subject Land and their respective legal representatives, successors, and assigns, but specifically excluding all tenants and lessees.

13.07. Intent and Purpose. The provisions of this Declaration, and any Supplemental or Amended Declaration, shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of an apartment complex. Failure to enforce any provision, restriction, easement, covenant, or condition in this Declaration, or in any Supplemental or Amended Declaration, shall not operate as a waiver of any such provision, restriction, easement, covenant, or condition or of any other provisions, restrictions, easements, covenants, or conditions.

13.08. Construction. Wherever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders. The articles and section headings set forth herein are for convenience and reference only and are not intended to describe, interpret, define, or otherwise affect the content, meaning, or intent of this Declaration or any 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.

13.09. Address for Notices. All notices or demands intended to be served upon any Owner shall be in writing and shall be deemed given or made when received or five (5) days after being sent by registered or certified U.S. mail, postage prepaid, addressed as follows:

If to the Declarant: Sterling Village, L.C.
350 Bridge Parkway
Redwood City, CA 94065-1517

or to such other address as Declarant or any Owner may hereafter furnish to the other Owners in writing.

13.10. Effective Date. This Declaration shall take effect immediately upon recording.

13.11. Owner Obligations. All obligations of each Owner under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that it may be leasing, renting, or selling its Parcel under contract. The Owner shall have no obligation for expenses or other obligations accruing after it conveys the fee title for such Building Area to another party.

13.12. Assignment by Declarant. Sterling Village, L.C. shall continue as the initial Declarant hereunder for so long as it or any of its affiliates own any of the Subject Land; provided that all of the rights and obligations of Declarant may be transferred among it and its affiliates (whether or not the transferee is an Owner) at any time; and provided further that Sterling Village, L.C. and its affiliates may resign as Declarant at any time by assigning their rights and obligations as Declarant hereunder to any one or more of the Owners of any of the Parcels ("Successor Declarant"). In the event that no such assignment to any Owner is made, then at such time as Sterling Village, L.C. and its affiliates each cease to be an Owner of any of the Subject Land, then

the Owner of the Phase I Parcel shall automatically become the Successor Declarant hereunder. Each Successor Declarant shall automatically have all of the prior Declarant's rights and obligations under Sections 7.02, 7.04, 7.05, 7.06 and 13.04, and otherwise hereunder; and the prior Declarant shall be relieved of the performance of any further duty or obligation hereunder.

13.13. Mortgage Protection. No breach of any of the covenants, conditions and restrictions herein contained, nor the enforcement of any lien provisions herein, shall render invalid the lien of any mortgage as deed of trust on any of the Subject Land made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee sale, or otherwise.


[END OF TEXT]

[SIGNATURE PAGE FOR DECLARATION OF RECIPROCAL EASEMENTS AND
COVENANTS (STERLING VILLAGE)]

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

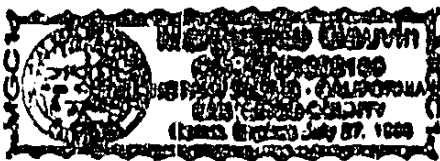
STERLING VILLAGE, L.C.

By: PROM MANAGEMENT GROUP, INC.,
Manager a California corporation

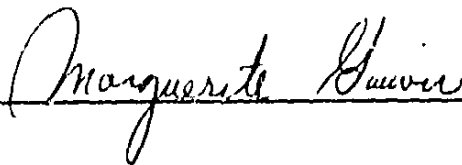
By: 
John J. Murphy, Assistant Secretary

STATE OF CALIFORNIA)
)
) SS.
COUNTY OF SAN MATEO)

On APRIL 28, 1997, before me, MARGUERITE GARVIN
JOHN J. MURPHY personally appeared _____
 personally known to me or proved to me on the basis of
satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument
and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies),
and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of
which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.



ACKNOWLEDGMENT AND CONSENT

The undersigned hereby acknowledges receipt of the foregoing Declaration of Reciprocal Easements and Covenants, and consents to all of the terms and provisions thereof.

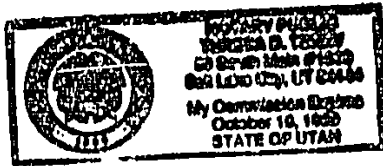
DATED this 5/6/, 1997.

KEYBANK NATIONAL ASSOCIATION

By: [Signature]
Its: [Signature]

STATE OF UTAH)
) :SS
COUNTY OF SALT LAKE)

On the 6th day of May, 1997, the foregoing instrument was acknowledged before me by Craig Hackett, the signer of the foregoing instrument, who being by me duly sworn, did say that he is the Senior V.P. of KeyBank National Association, and he was authorized to, and did, execute the foregoing instrument as Senior V.P. of said KeyBank National Association.



[SEAL]

[Signature]
NOTARY PUBLIC

Exhibit "A"

**SUBJECT LAND
FOR
STERLING VILLAGE APARTMENT COMPLEX**

Parcel 1 and Parcel 3, Sterling Village Parcel Plat, recorded in the office of the Salt Lake County Recorder.

Source: _____
Tax Parcel: _____

Exhibit "B-1"

PHASE I PARCEL:

Parcel 1, Sterling Village Parcel Plat, recorded in the office of the Salt Lake County Recorder

Exhibit "B-2"

PHASE II PARCEL:

[Legal to be identified by subsequent amendment]

Exhibit "B-3"

PHASE III PARCEL:

[Legal to be identified by subsequent amendment]

3K7667PG2185

STERLING VILLAGE
SOUTH JORDAN, UTAH
PHASE I SITE PLAN

MAY 9 197 12:22

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COMMUNITY
CENTER

PHASE I

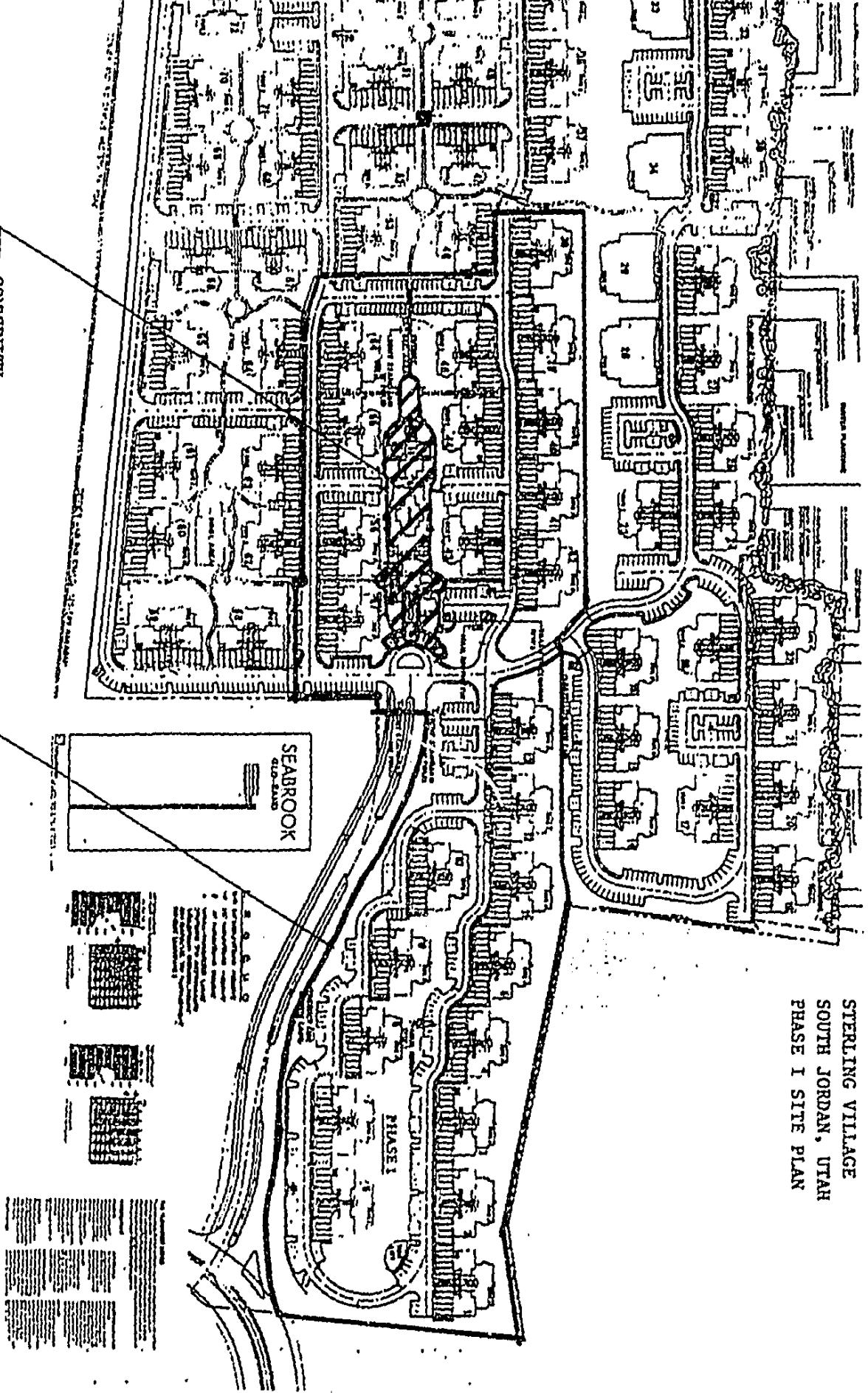


EXHIBIT "C-1"

0001

MAIN FIVE HILL

Exhibit "C-2"

PHASE II SITE PLAN

[To be added at a later date]

Exhibit "C-3"

PHASE III SITE PLAN

[To be added at a later date]