

WHEN RECORDED, PLEASE RETURN TO:  
Mr S Taylor Smith  
Wallingford Development, Incorporated  
830 West 14600 South  
Bluffdale, Utah 84065

7428128  
07/30/1999 02:44 PM 30.00  
NANCY WORKMAN  
RECORDER, SALT LAKE COUNTY, UTAH  
WALLINGFORD DEVELOPMENT  
830 W 14600 S  
BLUFFDALE UT 84065  
BY: R.D.J, DEPUTY - WI 11 P.

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**HERITAGE INDUSTRIAL PARK (PHASE 4: LOT 402)  
800 West 14600 South  
Bluffdale, Utah**

This declaration, made this 22nd day of July, 1999, by WALLINGFORD DEVELOPMENT, INCORPORATED, a Utah corporation, hereinafter referred to as Grantor.

**WITNESSETH:**

Whereas, the Grantor is the owner of real property in Bluffdale, Salt Lake County, Utah, known as the Heritage Industrial Park, more particularly described as follows:

Lots 402, inclusively, of the Heritage Industrial Park (Phase 4) subdivision development, according to the official plat thereof on file with the Salt Lake County (Utah) Recorder [1 lot]

Whereas, the Grantor desires to create on the property an industrial and business park development and desires to prove for the preservation in value and desirability of the Property. To this end Grantor desires to subject the Property to the easements, covenants, conditions, restrictions, reservations, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Property and for each subsequent owner and occupant thereof.

Now, therefore, Grantor hereby declares that the Property shall be held, transferred, sold, conveyed, leased, subleased and occupied subject to the following easements, covenants, conditions, restrictions, reservations, charges and liens which shall run with the Property and are for the purpose of protecting the value and desirability of the Property, and every portion thereof, and shall be binding upon all parties having any right, title or interest in the Property or any portion thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

**1. PURPOSE OF THIS DECLARATION**

This Declaration is made in order to provide a Uniform Plan for the development, improvement and use of the Property so as to:

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BOOK 8298 PAGE 4014

(a) Protect the owners and occupants of Building Sites against such use of neighboring building sites as might depreciate the value of their property;

(b) Encourage the erection of attractive, permanent improvements appropriately located to insure harmonious appearance and functions;

(c) Assure adequate off-street parking space and off-street truck loading and maneuvering facilities;

(d) Encourage the development of aesthetic architectural and engineering design, including compatible landscaping and in general provide a harmonious development that will promote the general welfare of the Owners and Occupants of the Property;

(e) Supervise, administer and enforce deed and other restrictions, including but not limited to the architectural standards and requirements imposed hereby; and

(f) Provide such other services related to any of the foregoing as in the opinion of the Grantor shall benefit the Property.

## 2. ADOPTION OF COVENANTS, CONDITIONS AND RESTRICTIONS

The Grantor does hereby adopt, establish and impose the following easements, covenants, conditions, restrictions, reservations, charges and liens upon the Property, which easements, covenants, conditions, restrictions, reservations, charges and liens shall be deemed to be included in all future contracts for deed, deeds and leases of the Property, or any portion thereof, the same as if such provisions were set forth verbatim therein, as covenants running with the Property, to wit:

Lot 402 of the Heritage Industrial Park (Phase 4) subdivision development, according to the official plat thereof on file with the Salt Lake County (Utah) Recorder [1 lot]

The herein-described real estate shall be deemed to be encumbered by the covenants, conditions and restrictions contained herein. The owner(s) of any of the lots encumbered by the covenants, conditions and restrictions contained within this Declaration shall, by the purchase of said lot, be deemed to have consented to the covenants, conditions and restrictions, according to their terms, and the enforceability against said owner.

## 3. DEFINITIONS

(a) "Building" shall mean and include, but not be limited to, the main portion of a structure built for permanent use and all projections or extensions thereof, including but not limited to garages, outside platforms and docks, carports, canopies and

porches.

(b) "Building site" shall mean a tract of real property within the Property, as determined by the legal description in a conveyance or lease from Grantor or any parcel of land shown upon any recorded subdivision map excluding public rights-of-way. If fee simple title to two (2) or more adjacent Building Sites, as defined hereinabove, is acquired by the same Owner, such commonly-owned Building Site may, at the option of said Owner, be combined and treated as a single Building Site for the purposes of this Declaration, provided that the location of the Improvements on such combined Building Site shall be subject to prior written approval by Grantor.

(c) "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions, together with all of the provisions contained therein.

(d) "Grantor" shall mean Wallingford Development, Incorporated, a Utah corporation, their successors and assigns, if such successors and assigns are the owner or owners of any portion of the Property and/or are designated by WALLINGFORD to perform the obligations of the Grantor hereunder.

(e) "Improvements" shall mean and include, but not be limited to, buildings, out buildings, driveways, exterior lighting, fences, landscaping, lawns, loading areas, parking areas, retaining walls, roads, screening walls, signs, utilities, walkways, berms, swales located on a Building Site.

(f) "Landscaping" shall mean a space of ground covered with lawn and/or ground cover combined with shrubbery, trees and the like, which may be complemented with earth berms, masonry or similar materials, all harmoniously combined with themselves and with other improvements on the Building Site.

(g) "Occupant" shall mean an entity, whether it be an individual, corporation, joint venture, partnership, limited liability company or association or other entity, which has purchased, leased, rented or has otherwise acquired the right to occupy and use any Building Site or portions of any Building Site, whether or not such right exercised.

(h) "Owner" shall mean an entity, whether it be an individual, corporation, joint venture, partnership, limited liability company, association or other entity, which is the record owner of any fee simple estate to any Lot which is part of the Property.

(i) "Sign" shall mean and include every advertising message, announcement, declaration, demonstration, display, illustration, insignia, surface or space erected or maintained in view of the observer thereof for identification, advertisement or promotion of the interests of any person, entity, product or service. The definition of sign shall also include the sign structure, supports, lighting system and any attachments, ornaments or other features used to draw attention of observers. This definition does not

include any flag, badge or ensign of any government or governmental agency erected for and used to identify said governmental agency.

(j) "Street" shall mean any public street or highway, whether presently constructed, dedicated by plat map or contemplated in the future, under a street plan approved by any public authority.

(k) "Setback" shall mean the distance from the property line of the Building Site to the improvements that is subject to the setback requirement provided in this Declaration.

#### 4. LAND USE

Building Sites within the Property shall be used for commercial and industrial purposes. The foregoing shall not, however, prevent Grantor from constructing, owning, leasing or conveying real property within the Property for service facilities consistent with the purposes of this Declaration. No portion of the Property may be occupied by any use which is in violation of applicable ordinances, laws and regulations of any governmental entity having jurisdiction over the use of any or all of the Property.

#### 5. RESTRICTIONS AND REQUIREMENTS FOR IMPROVEMENTS.

The restrictions and requirements are imposed on the Property subject to this Declaration and are binding on all Owners and Occupants, and may be enforced against such Owners and Occupants jointly and/or severally.

(a) Temporary Structures: No temporary Buildings or other temporary structures shall be permitted on any Building Site, provided, however, trailers, temporary buildings and the like shall be permitted for construction purposes during the construction period of a permanent Building. The location and nature of such structures must be submitted to Grantor for written approval and shall be placed as inconspicuously as practicable, shall cause no material inconvenience to Owners or Occupants of other Building Sites, and shall be removed not later than thirty (30) days after the date of substantial completion for beneficial occupancy of the Building(s) in connection with the temporary structure was used.

(b) Completion of Construction. Once begun, any improvements, construction, landscaping or alterations approved by Grantor shall be diligently prosecuted to completion.

(c) Building Setback Requirements. All buildings shall be attractively oriented to the fronting street and shall maintain the following setbacks:

(a) a minimum front yard setback of at least thirty (30) feet;

(b) a minimum corner side yard setback of at least thirty (30) feet; and

(c) a minimum rear yard setback of at least 15 feet.

Where interior side yard lot lines and rear yard lines do not abut other Heritage Industrial Park lot lines, or where interior side yard lot lines and rear yard lot lines abut with commonly owned

BOOK 8298 PAGE 4017

lots, the setback shall be governed by Bluffdale City ordinance. Where the minimum setback requirements are less than the drainage and utility easements affecting the Building Site, the width of the drainage and utility easement shall also be the width of the minimum setback requirement.

(d) Parking, Loading and Unloading Areas. All off-street parking and loading areas shall comply with Bluffdale City ordinance. Parking shall not be permitted within any drainage or landscape setback. No parking shall be permitted on any street or drive, or any place other than parking areas located upon Building Sites. Each owner and Occupant shall be responsible for compliance by its employees and visitors. Off-street loading space shall be designed to include an additional area or means of ingress and egress which shall be adequate for maneuvering.

The number of parking spaces shall be determined according to Bluffdale City ordinance. All parking surfaces must be paved with concrete, asphalt, or other hard surface paving material, must be marked and must be properly graded to assure adequate drainage.

Each development shall provide sufficient on-lot loading facilities to accommodate site activity. All loading movements, including turn-around and maneuvering shall be made off of the public right-of-way. Loading docks shall be located and screened so as to minimize visibility from any public street.

(e) Screening of Service Facilities and Storage Areas. Garbage and refuse containers shall be located within Buildings, or shall be concealed from visibility by means of shrubbery or screening walls of material similar to or compatible with that of the Building; provided however, that the facilities and screening walls shall not be located within any drainage or utility easement or landscaping buffer. Such improvements shall be integrated with the concept of the Building plan, be designed so as not to attract attention, and shall be inconspicuously located.

(f) Exterior Materials and Colors. Architecturally and aesthetically suitable building materials shall be applied to or used on all sides of a Building which are visible to the general public and to the view of the neighboring Building Sites. Colors shall be harmonious and compatible with colors of the natural surroundings and other adjacent Buildings. Buildings must have exterior surfaces of masonry material, such as stucco, brick, block, concrete and similar masonry materials. Buildings having metal and wood exteriors of any kind (except for incidental areas of necessary trim) are not permitted, except with the express written permission of S Taylor Smith. The south side of the building located upon Lot #402 may have a metal exterior.

(g) Utilities, Mechanical Equipment, Roof Projections, Outside Storage. All utility lines, including electrical, shall be underground. Pad mounted transformers, switch gear and similar equipment, which must be installed above ground, shall be screened with suitable landscaping consistent with safety and other regulations of the utility companies.

All mechanical equipment shall be located or screened so as not to be visible when viewed from the immediate streets by the general public. Penthouses and mechanical equipment screening shall be aesthetically incorporated into the architectural design of the Buildings and shall be constructed of materials compatible with those of the Building.

Antennae shall be visually masked to the extent practicable and consistent with electromagnetic considerations.

No land or buildings shall be used so as to permit the keeping of articles, goods or materials exposed to the view of the public or adjoining lots.

(h) Pollutants. No trades, services or activities shall be conducted on the Property, nor shall anything else be done thereon, which may be or become an annoyance or nuisance to other Owners or Occupants by reason of unsightliness or excessive emission of fumes, odors, glare, vibration, gases, radiation, dust, liquid wastes, smoke or noise.

(i) Site Grading. Earth mounding is required as a screen along the street in front of parking and service areas where practical. Where mounding is not practical, landscaping shall be used to screen parking and service areas. Mounding is not required where landscaping extends from the street to the Building. It is mandated that all surface drainage systems comply with Bluffdale City ordinances and be expressly approved in writing by the Grantor prior to installation thereof.

(j) Landscaping. Unless specifically approved in writing as provided herein, Landscaping prior to construction may be of such minimal nature as to provide ground cover and to control weeds. Landscaping shall be installed within ninety (90) days after completion of Building construction or as soon after as weather will permit. Site landscaping includes all planted materials, site furniture, site lighting, and mechanical equipment incidental to any Building. Parkway landscaping shall conform to the Parkway Landscaping Guidelines as detailed in Exhibit "A" attached hereto and made part of by this reference. All site landscaping plans shall be submitted to the Grantor for written approval prior to installation. All lots abutting the East Jordan Canal shall fence the portio of their Lot abutting the canal right-of-way or boundary with a 6-foot high chain link fencing approved by the Grantor if such fencing is required by Bluffdale City.

(k) Lighting. All exterior and security lighting shall have underground service and shall be designed, erected, altered and maintained in accordance with plans and specifications approved in writing to the end that lighting shall be compatible and harmonious through the Property. Floodlighting of Building is limited to concealed light sources. Other fixtures, except parking area lighting, shall be selected and installed so that light sources are not visible from any street, and concealed light sources shall be utilized wherever practical. Fixtures shall not be more than 40 feet in height.

(i) Signs. All signs must be approved in writing by the Grantors and by Bluffdale City. All signs attached to a Building must be parallel to and contiguous with its wall and shall not project above its roof line. No sign of a flashing or moving character shall be installed and no sign shall be painted on a building wall. No billboards or outdoor advertising is permitted.

(m) Maintenance. Each Owner and Occupant of the Property shall be responsible for keeping its Building Site or Sites, whether or not improved, Buildings and other Improvements, including lawn and landscaping, maintained in a safe, clean, neat and orderly condition, and shall prevent rubbish, damage, replaced equipment, or machinery and the like from accumulating on its Building Site, including City-owned parkstrip which is adjacent to the Owner's property. If the Grantor is not satisfied with the level of maintenance on a Lot, Grantor shall notify the Owner in writing and the Owner shall have ten (10) days thereafter in which to restore its Lot to a level of maintenance acceptable to the Grantor. If, in the Grantor's opinion, the Owner has failed to bring the Lot to an acceptable standard within such ten (10) day period, the Grantor may order the necessary work performed on the Lot at the Owner's expense; multiple owners of Lots shall be jointly and severally liable for such expenses. Grantors may file liens and proceed with the sale of the property to pay for said expenses of maintenance and collection costs.

(n) Utility Connections. All utility lines, connections and installations must be underground. Any external transformers, meters and similar apparatus must be at ground level and screened so as to minimize visibility thereof from any street. In order to maintain the appearance and integrity of the roadways in the Industrial Park, the Grantor shall install fire and water laterals necessary for the development at the time of construction of Grantee's building.

If it becomes clear that additional utility or drainage easements, whether or not contemplated or mentioned in this Declaration, between or across portions of rear, front or side of the Lots are reasonably necessary and desirable, then upon request of Owner or of the Architectural Review Committee, and provided that said proposed additional easement will not unreasonably interfere with the development, use and occupancy of any Building Lot, unreasonably affect access to or operation of any such Building Lot, or materially increase the operational costs of any Building Lot, each owner of each lot agrees to grant upon such additional easements across the Building Lot, without charge therefor. Any such new easement shall be signed by the record owner of the Lot to be encumbered by the easement and shall be recorded in the Office of the Salt Lake County (Utah) Recorder.

(o) Power Corridor. Should any lot owner acquire the right to use the power corridor abutting owner's Lot or any part of the corridor abutting or within the master plan of Heritage Industrial Park, these easements, covenants, conditions, restrictions, reservations, charges, and liens shall apply to the Owner's use of the corridor as if the corridor were a part of Owner's lot or lots.

6. APPROVAL OF BUILDING AND DEVELOPMENT PLANS REQUIRED

No construction or exterior alterations of an Building or other Improvements including signs, may be commenced without written approval by Grantors of the plans for such construction or alteration. Grantor shall either approve or disapprove plans submitted in writing within thirty (30) days from the date on which they are received, and failure to either approve or disapprove within this period shall constitute approval of said plans. Wherever approval in writing is required by the terms of this Declaration, such requirement shall mean written approval of Grantor addressed to Owners and Occupants by certified or registered mail and obtained in the following manner:

(1) All applications to Grantor shall be addressed as follows:

Wallingford Development, Inc.  
ATTN: S Taylor Smith  
830 West 14600 South  
Bluffdale, Utah 84065

or to any such address as Grantor shall hereafter designate in writing.

(2) Grantor shall exercise its best judgment to see that all Buildings and Improvements, including Signs, constructed within the Property conform to the purposes and requirements of this Declaration; provided, however, Grantor and its employees or agents shall not be liable to any Owner or Occupant or to anyone submitting plans for approval, or to any other party by reason of a mistake in judgment, negligence or nonfeasance arising out of , or in connection with the approval, disapproval or failure to approve any such plans.

(3) Upon receipt of approval of plans, Owner or Occupant may proceed with the commencement of all approved construction. Unless work on the approved construction shall be commenced within one (1) year from the date of such approval and diligently pursued thereafter, then the approval shall automatically expire: (1) unless Grantor shall given a written extension of time, which shall not be unreasonably withheld or (2) unless Owner and Occupant applies for a phased project to be constructed on one or more Building Sites containing a total of eight (8) acres or more, if construction of that first phase shall be commenced within one (1) year from the date of such approval, the entire for the balance of the phases project shall not lapse.

(d) Approval of plans by the Grantor may be secured prior to acquisition of a Building Site pursuant to the terms of the sales contract.

If, after initial construction of a Building Site, Owner or Occupant submits plans for alteration, addition or reconstruction, they must follow the above-outlined procedure before any



construction may begin.

#### 7. CONFLICTS

Zoning ordinances, building codes and regulations, and any other governmental restrictions and requirements shall be observed. In the event of any conflict between Declaration and any such governmental codes, regulations, restrictions and requirements, the more restrictive standards shall apply. Any approval of Grantor required in this Declaration does not in any way waive or relieve Owners and Occupants from obtaining approvals required by any governmental body having jurisdiction.

#### 8. NOTICE TO BE GIVEN BY OWNERS

Any owner of a Building Site within the Property, who shall transfer to another entity, whether such entity be an individual, corporation, joint venture, partnership, limited liability company, association or other entity, any partial interest in or right of occupancy to such Building Site or portions thereof, shall give actual written notice of the existence of this Declaration of Covenants, Conditions and Restrictions to such entity.

#### 9. ENFORCEMENT

Enforcement of the provisions of this Declaration shall be by any appropriate proceeding at law or in equity against any Owner, Occupant, person, corporation or other entity violating or attempting to violate said provisions, either to restrain such violation, to enforce liability, or to recover damages, or by any appropriate proceeding at law or in equity against the Property, or any portion thereof, to enforce any lien or charge arising by virtue hereof. Grantor shall not be liable for enforcement of, or for failure to enforce, said provisions, and failure of Grantor or of any Owner or Occupant to enforce any of the provisions of this Declaration shall in no event be deemed to be a waiver of the right to do so thereafter. It is the expressed intention of the Grantor that any owner of any lot within any "phase" of the Heritage Industrial Park be able and authorized to enforce any covenant, condition or restriction as contained within this Declaration applicable to the herein-described real property. Accordingly, any owner of any Lot within this particular "phase" of the Industrial Park and/or any owner of any Lot within any subsequent "phase" of the Heritage Industrial Park, as said subsequent phase(s) has/have been owned by Grantor and are immediately contiguous to this "phase" of the Industrial Park and as said phase(s) has/have been approved by Bluffdale City and the plat for the development thereof recorded in the Office of the Salt Lake County (Utah) Recorder, shall have the right to enforce the provisions contained within this Declaration against the Lots encumbered by this Declaration (and the owners of said lots), even though the owner enforcing the covenants, conditions and restrictions contained in this Declaration may not necessarily be encumbered by the exact same covenants, conditions and restrictions contained in the Declaration applicable to his/her lot in that later "phase".

10. MORTGAGES AND DEEDS OF TRUST.

Breach of any of the provisions of this Declaration shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value within the Property, but this Declaration shall be binding upon and effective against any Owner of the Property, or any proportion thereof, whose title thereto is acquired by foreclosure, trustee's sale or otherwise.

11. DURATION, MODIFICATION AND TERMINATION

The easements, covenants, conditions, restrictions, reservations, charges, and license set forth in this Declaration shall run with and bind the land within the Property, and shall be and remain in effect, and shall inure to the benefit of and be enforceable by Grantor and/or the Owner of any Property subject to this Declaration, their heirs, successors and assigns for a term of twenty (20) years from the date this Declaration is recorded, after which time the term of this Declaration shall be automatically extended for successive periods of ten (10) years, to a maximum of 99 years unless terminated at the end of any such period by a vote of the Owners as set forth below.

Modifications. Any modification of the development guidelines, termination of this Declaration or amendments of this Declaration shall take place only by the affirmative vote of two-thirds (2/3) of all the votes entitled to be voted. The owner or owners, as the case may be) of each lot shall have one vote for each platted "lot" owned by said owner (or owners, as the case may be). In the event that subsequent "phases" of the Heritage Industrial Park are platted and recorded, the owners of the "lots" within such subsequently-platted phases shall be deemed (for purpose of amendment, modification or termination of this Declaration) to be owner(s) of lot(s) within this "phase" and the prerequisite majority must include such owners of those platted "lots" in order for any amendment, modification or termination to be validly approved. For amendment or modification purposes, each lot shall be characterized as a unit: the owners of partial and/or undivided interests within the lot must vote said interests as a unit (per the "lot") and not reflective of their undivided or partial interest therein. Any termination or amendment of this Declaration must be recorded.

12. SEVERANCE OF OWNERSHIP FROM LOT

No purchaser or Owner of any Lot shall convey his interest under this Declaration separate from the conveyance of a Lot.

13. INTERPRETATION

The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which the provisions hereof are construed. Whenever the context so requires, the singular shall include the plural and the plural shall include the singular, the whole shall include any part thereof and any gender shall include both genders. The invalidity

or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof. This Declaration shall be liberally construed to effect all of its purposes.

14. APPLICABLE LAW

This Declaration and the rights and obligations thereunder shall be governed by and construed in accordance with the laws of the State of Utah.

15. SEVERABILITY

Invalidation of any one or more of the provisions of this Declaration by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

IN WITNESS HEREOF, Grantors have caused this instrument to be signed by its duly authorized offices on the date first above written.

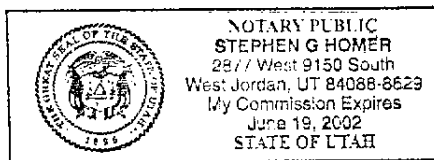
WALLINGFORD DEVELOPMENT, INC.

By: S. Taylor Smith Pres.  
S TAYLOR SMITH, President

STATE OF UTAH )  
 ) ss  
COUNTY OF SALT LAKE )

On the 22nd day of July, 1999, S TAYLOR SMITH personally appeared before me and, on his oath, acknowledged to me that he is the President of WALLINGFORD DEVELOPMENT, INCORPORATED, a Utah corporation, and that the foregoing Declaration was signed, for and in behalf of said corporation, pursuant to authorization of the Board of Directors of said corporation, for the purposes therein indicated.

Stephen G Homer  
NOTARY PUBLIC



BOOK 8298 PAGE 4024