

DECLARATION OF PROTECTIVE COVENANTS,  
AGREEMENTS, RESTRICTIONS AND  
CONDITIONS AFFECTING THE REAL PROPERTY  
KNOWN AS SCENIC HILLS SUBDIVISION NO. 3

E 1351651 B 2184 P 960  
JAMES ASHAUER, DAVIS CNTY RECORDER  
1977 OCT 3 1:26 PM FEE 26.00 DEF REC  
REC'D FOR GREGERSON HOMES

WHEREAS, the undersigned ("Declarant") controls and is the owner of record of Lots 1 through 47 of that certain tract of land situated in Davis County, State of Utah, described as Scenic Hills Subdivision No. 3 ( hereafter the "Subdivision" ), and

WHEREAS, the undersigned intends to sell lots within the Subdivision, which it desires to subject, pursuant to a general plan of improvement, to certain restrictions, conditions, covenants and agreements between itself and the several purchasers of said property and between and among the several purchasers of said property as hereafter set forth,

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

1. SCENIC EASEMENT

1.1 AREA OF APPLICATION. The scenic easement covenants in this Part 1 shall apply to portions of the lots of the Subdivision and more particularly to those specific parcels of property (the "Scenic Easement Property") shown on the plat of Scenic Hills Subdivision No. 3 as recorded in the office of the Davis County Recorder.

1.2 RIGHT TO INGRESS AND EGRESS. Every owner that owns any lot on which any part of the Scenic Easement Property is located shall have the right of ingress and egress over, upon and across the Scenic Easement Property. In addition, there is reserved unto North Salt Lake City and any public utility company

easements within the Scenic Easement Property for utility services and utility lines which serve the Subdivision and the installation, maintenance, repair and replacement of such lines.

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1.3 RESTRICTIONS ON USE. The Scenic Easement Property shall not be used or occupied other than by the owners of lots of the Subdivision on which any part of the Scenic Easement Property is located, their guests and invitees and use will be restricted to foot traffic only. No fence, paving, obstruction, house, garage, outbuilding, shed, temporary building or other structure of any kind shall be erected, constructed, permitted or maintained on, under or within the Scenic Easement Property. Neither the owner of the Scenic Easement Property nor those persons having an easement with respect to the Scenic Easement Property, shall excavate, grade, plant, litter or dump, disturb the vegetation or store materials upon, over or across the Scenic Easement Property. The native growth of the Scenic Easement Property shall not be destroyed or removed.

1.4 MAINTENANCE. The owners of the Scenic Easement Property shall be responsible for maintaining the portion of the Scenic Easement Property owned by them. No owner will do or permit to be done any act upon said property which may be or is of may become a nuisance.

1.5 EASEMENT DEEMED CREATED. Each conveyance of any lot on which any portion of the Scenic Easement Property is located shall be construed to grant and reserve such reciprocal easements as are provided herein, even though no specific reference to such easements appears in any such conveyance.

## 2. BINDING EFFECT.

2.1 MUTUAL AND RECIPROCAL BENEFITS. All of said covenants, conditions, restrictions, stipulations, and agreements are made for the direct and mutual and reciprocal benefit of each and every lot created on the above-described property and are intended to create reciprocal rights and obligations between the respective owners of all of the lots so created and to create a privity of contract and estate between the grantees of said lots, their heirs, successors and assigns, and shall, as to the owners of each lot in said tract, their heirs, successors and assigns, operate as covenants running with the land for the benefit of all other lots in said tract and in adjacent subdivisions.

2.2 PERSONS BOUND BY THESE RESTRICTIVE COVENANTS, AGREEMENTS AND CONDITIONS. All covenants, conditions, restrictions, stipulations, and agreements herein shall run with the land, and all owners, purchasers or occupants thereof shall, by acceptance of contracts or deeds, future owners of said land and with their respective successors and assigns to conform to and

observe the following covenants, conditions, restrictions, as to the use of the land and construction of residences and improvements thereon.

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3. ARCHITECTURAL AND STRUCTURAL CONTROL COMMITTEE:

3.1 COMMITTEE, MEMBERS, QUORUM: An architectural and Structural Control Committee (hereinafter "the Committee"), consisting of two (2) initial members is hereby created. The Committee may consist of two to five members. The Committee may fill vacancies in the Committee, remove members thereof, and increase the number of members, not to exceed five (5) members. The functions of the Committee shall be, in addition to the functions set forth elsewhere in this Declaration, to pass upon, approve or reject any plans or specifications for structures to be erected or remodeled on lots in the subdivision, so that all structures shall conform to the restrictions contained herein and to the general development plans of the Declaration for the improvement and development of the whole subdivision. Nothing in this paragraph shall be construed as authorizing or empowering the Committee to waive any restrictions which are set forth in this Declaration except as herein specifically provided. Any authorization, approval or action taken by the Committee must be in writing signed by two (2) members of the Committee.

The initial members of the Committee shall be:

S. Arthur Gregerson  
121 South 350 East  
North Salt Lake, Utah 84054

Montess B. Gregerson  
121 South 350 East  
North Salt Lake, Utah 84054

3.2 COMMITTEE APPROVAL REQUIRED: No building or structure, including a tennis court or swimming pools or other facility, shall be erected, remodeled or placed on any lot without the written approval, including but not limited to compliance with Part 1 hereof (Scenic Easement), and any other restrictions or requirements contained in this Declaration, first having been obtained from the Committee. No construction of any kind or nature on any of the lots shall be commenced until either sidewalk or curb grade has been established.

Lot owners may apply for conceptual approval of proposed improvements by submitting to the Committee a written request for such approval together with duplicate preliminary plans consisting of a site plan including topographic information and a footprint of all proposed structures of improvements, including fences, walls, tennis courts, swimming pools, and garages. The committee's approval or disapproval of the Preliminary Plans shall be

conceptual only and shall be issued to the Owner/Applicant in writing, signed by the Committee's members, within fifteen (15) days after the Committee's receipt of the Preliminary Plans and the written application for approval.

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The Owner/Applicant shall request final approval of proposed improvements by submitting to the Committee, in duplicate final "to-be-constructed" plans, (including the items contained in the Preliminary Plans, as modified, in final form). The Committee's approval or disapproval of the Final Plans shall be issued to the Owner/Applicant in writing, signed by the Committee's members within fifteen (15) days after the Committee's receipt of the Final Plans and the written application for final approval. The application will be deemed received by the Committee only when accompanied by two complete sets of the Final Plans. The Committee shall not permit any oral modification of the Final Plans, and all Final Plans so submitted will be evaluated based solely on the submitted final plans.

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

**3.4 ENFORCEMENT:** The lot owners hereby agree that the Committee, or any owner of a lot within the subject property or within adjacent plats, may institute in its own name any suit or suits necessary in order to obtain a decree for specific performance or any restraining order necessary to enforce the provisions of this Declaration. Should any such suit be instituted, the affected lot owner or owners agree that if the court finds in the plaintiff's favor, such defendant owner shall pay reasonable attorney's fees for the services of plaintiff's attorney as such fees may be fixed by the Court.

#### 4. RESIDENTIAL AREA COVENANTS

**4.1 AREA OF APPLICATION.** The residential area covenants in this Part 4 in their entirety shall apply to all of lots of the Subdivision as recorded with the Davis County Recorder's Office.

**4.2 LAND USE:** No lot shall be used except for single family residential purposes.

4.3 BUILDING SIZE: Every detached single family dwelling, exclusive of garages and open porches, erected on any lot within the Subdivision shall have a minimum floor area of 1600 square feet for a single level residence and 2000 square feet for a two-level residence.

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4.4 COMPLIANCE WITH ZONING AND BUILDING ORDINANCE OF THE CITY OF NORTH SALT LAKE: All excavation work, all foundations, all construction, and all building in said subdivision shall be done, performed, placed or constructed, as the case may be, in, on or upon said lots in accordance with the provisions of the ordinances of the City of North Salt Lake, in effect in connection with the property described heretofore when the buildings are constructed or remodeled. This provision shall not affect the applicability of the other provisions hereof.

4.5 MOVING OF STRUCTURES: No structure of any kind shall be moved from any other place to the property, except for (a) new factory building or manufactured dwellings, or (b) unique accessory building(s) with redeeming architectural merit, which in either case, shall be specifically approved by the Committee prior to placement on the lot.

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

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

## 5. NUISANCES:

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

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

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

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

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

5.6 RUBBISH: No rubbish shall be stored or allowed to accumulate anywhere in said subdivision, except in sanitary containers appropriately shielded from public view.

5.7 TRANSMITTING AND RECEIVING EQUIPMENT: No external radio, citizen's band, ham radio or any other transmitting and/or receiving antennas or equipment shall be placed upon any structure or lot, provided, however, a television antenna or satellite dish receiver may be placed in a yard at a secluded location, at a height and in a manner specifically approved by the Committee in writing prior to erection. Any such television antenna or satellite dish shall not be readily visible from other lots in the subdivision, or from adjacent subdivisions, or from any area downhill from the lot upon which it is located.

5.8 CONSTRUCTION DEBRIS: All lot owners shall properly maintain their lots during the construction period so as to insure that no "spoils" or any other debris from construction shall be permitted to blow or otherwise be deposited upon any adjoining lot or upon any other private or public property or public right of way. Lot owners shall take whatever action is necessary to prevent

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run-off onto, and resultant erosion of adjoining private property. Lot owners agree that the Declarant or the Committee shall be empowered to clean up any and all "spoils" or construction debris which are located upon any and all adjoining public or private property resulting from activities of a lot owner, his builder or any other person employed or otherwise controlled by a lot owner, and record a lien upon the lot owner's property to secure the repayment of all sums expended by the Committee or by the Declarant in cleaning up and removing said "spoils" and debris from adjoining public or private property if same is not voluntarily cleaned up and removed by the lot owner within 48 hours of written notice from the Declarant, another lot owner, or the Committee, identifying the required clean up and removal work.

#### 6. VIOLATIONS OF RESTRICTIONS, PENALTIES:

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

#### 7. GENERAL PROVISIONS

##### 7.1 EFFECT OF WAIVER OR BREACH OR FAILURE TO ENFORCE:

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

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7.2 TERM. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten years unless an instrument signed by a two-thirds majority of the then owners of the lots has been recorded, agreeing to change the covenants in whole or in part.

7.3 ENFORCEMENT. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

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

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

7.6 ATTORNEYS' FEES AND COSTS: In the event any claim, demand or lawsuit is made or instituted to enforce any of the provisions contained in this Declaration, the defaulting owner or purchaser agrees to pay all costs and expenses of enforcing the same or collecting and penalties or damages, including the payment of a reasonable attorney's fee and all court costs.

7.7 RELATIONSHIP TO CITY, COUNTY AND STATE ORDINANCES: The provisions contained in this Declaration are in addition to the effective laws and ordinances of North Salt Lake, Davis County and the State of Utah. In the event of any conflict between the provisions of this Declaration and the effective laws and ordinances of North Salt Lake, Davis County, and the State of Utah, the most restrictive provision shall apply.

7.8 AMENDMENT. These covenants, except for those set forth in Part 1, may be amended by the written approval of the fee simple owners of at least two-thirds (2/3) of the lots within the subdivision. The covenants set forth in Part 1 may be amended by the written approval of (1) the City Council of North Salt Lake, (b) the fee simple owners of at least two-thirds (2/3) of the lots within the Subdivision; provided, however, that any amendment may not affect the easement of any public utility company which has



installed any utility or service lines within the Scenic Easement Property pursuant to Section 1.2 of this Declaration.

Dated this 15 day of September, 1997.

DECLARANT:

GREGERSON HOMES

S. Arthur Gregerson  
S. Arthur Gregerson, President

STATE OF UTAH )  
: ss.  
COUNTY OF DAVIS)

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On the 15<sup>th</sup> day of September, 1997,  
personally appeared before me S. Arthur Gregerson, who being by me  
duly sworn that he, the said S. Arthur Gregerson is the President  
of Gregerson Homes, and that the within and foregoing instrument  
was signed in behalf of said corporation by authority of a  
resolution of its Board of Directors, and said S. Arthur Gregerson  
duly acknowledged to me that said corporation executed the same.

Catharine Uehala  
Notary Public