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CAROL DEAN PAGE, DAVIS CNTY RECORDER  
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REC'D FOR FOUNDERS TITLE COMPANY

DECLARATION

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OF COVENANTS, CONDITIONS AND RESTRICTIONS  
for Summer Place P.U.D.

THIS DECLARATION, made on the date hereinafter set forth by  
Country Hills Inc., a Utah Corporation, hereinafter referred to  
as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property in  
Clearfield, County of Davis, State of Utah, which is more  
particularly described as:

Beginning at a point 1366.07 ft. South, and 1331.06 ft.  
West from the NE Corner of Section 7, T. 4 N., R 1 W.,  
S.L.B. & M.; thence S. 0°08'33"W. 374.90 ft. to the  
Northerly Canal R/W Line; thence N. 54°24'01"W. 168.00  
ft. along the Northerly Canal R/W Line; thence N.  
57°49'20"W. 353.91 ft.; along the Northerly Canal R/W  
Line; thence N. 0°08'33"E. 542.57 ft.; thence S.  
57°24'35"E. 378.68 ft.; thence S. 0°08'33"W. 100.10  
ft.; thence S. 57°24'03"E. 16.00 ft.; thence S.  
0°08'33"W. 75.00 ft.; thence S. 57°24'35"E. 123.00 ft.  
to the point of beginning, containing 4.990 acres.

NOW THEREFORE, Declarant hereby declares that all of the  
properties described above shall be held, sold and conveyed  
subject to the following easements, restrictions, covenants, and  
conditions, which are for the purpose of protecting the value and  
desirability of, and which shall run with, the real property and

be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

## ARTICLE I

### DEFINITIONS

Section 1. "Association" shall mean and refer to Summer Place Homeowners Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. Such Common Area shall include, but shall not be limited to, easements granted for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is more particularly described on the recorded plat.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with

the exception of the Common Area.

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Section 6. "Declarant" shall mean and refer to Country Hills Inc., a Utah corporation, its successors and assigns if such successors or assigns should acquire from the declarant, all of its rights and obligations of development.

## ARTICLE II

### PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to charge reasonable assessments and other fees for the maintenance of any improvements situated upon the Common Area, or any portion thereof;
- (b) the right of the Association to suspend the voting rights and right to use of any Common Area improvements thereon by an owner for any period during which any assessments against his Lot remains unpaid and for a period not to exceed 60 days for any infraction of its published rules and regulations;
- (c) the right of the Association to enforce the payment by any owner of the assessments made herein in accordance with the provisions herein;
- (d) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency,

authority, or utility for such purposes and subject to such conditions as may be agreed to by the members; provided, however, that the Association may grant such easements as shall be necessary for the development of property without the consent of the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3rds of each class of members has been recorded; and

(e) the right of individual owners to the exclusive use of parking spaces as provided in this Article.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Parking Right. Ownership of each Lot shall entitle the owner or owners thereof, to park in garage or directly in front of garage. No parking will be allowed in front of any lot or streets or street entrances. Streets must remain clear for use of emergency vehicles. Common parking is for guests or short term parking only. Recreational vehicle parking is subject to available space. Recreational vehicle parking is also a water retention area. Declarant or Association will not be liable for any damage caused to vehicles parked in recreational parking area.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such person shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on July 1, 1995.

#### ARTICLE IV

##### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the

Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively, to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area and of the homes situated upon the properties.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Four Hundred Twenty Dollars (\$420.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the

maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a majority vote of each class of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Trustees may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements.

In addition to the annual assessments authorized above, the Association may levy, in an assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than

60 days in advance of the meeting. At the first such meeting called, the presence of members of or proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half ( $\frac{1}{2}$ ) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the First day of the month following the conveyance of the Common Area to the Association. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Trustees shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed



certificate of the Association as to the status of assessments on a Lot is binding upon the Association as to the status of assessments on a Lot and is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 10 percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclosure the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot. Additionally, a late charge of \$10.00 shall be added on payments made more than 10 days after due.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or first Deed of Trust. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure (Trust Deed power of sale) or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

#### ARTICLE V

#### EXTERIOR MAINTENANCE

In addition to maintenance upon the Common Area, the Association shall provide grounds maintenance upon each Lot which is subject to assessment hereunder, as follows: trees, shrubs, grass, walks, roads, and other grounds improvements. Such exterior maintenance shall not include exterior of buildings, glass surfaces, doors to entry of units and back yards of each Lot.

In the event that the need for maintenance or repair of a lot or the improvements thereon is caused through the willful or negligent acts of the family, guests or invitees of the owner of the lot needing such maintenance or repair, the cost of such exterior maintenance shall be added to and become part of the assessment to which such lot is subject.

#### ARTICLE VI

##### RESIDENTIAL AREA COVENANTS

Section 1. Land Use. No Lot, nor building thereon shall be used except solely for residential purposes.

Section 2. Architectural Control. No fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Trustees of the Association, or by an architectural committee composed of

three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

Section 3. Nuisances. No noxious or offensive activity shall be carried on upon any Lot or Common Area, nor shall anything be done thereon which may be or may become any annoyance or nuisance to the neighborhood. No clothes drying or storage of any articles which are unsightly in the opinion of the Association or the Architectural Control Committee will be permitted on a Lot or the Common Area, unless in enclosed areas designed for such purpose. No automobiles, trailers, boats or other vehicles are to be stored on the streets or in the front or side of the Lots, and no owner, or any other individual shall be permitted to repair or otherwise work on such except in enclosed garages.

Section 4. Signs. No sign of any kind shall be displayed to the public view on any Lot except one professional sign of not more than four feet square, advertising the property for sale or rent, or signs approved by the Declarant and used by a builder to advertise the property during the construction and sales period.

Section 5. Animals. No animals of any kind shall be kept or permitted by any owner on any Lot, except such animals as would be kept exclusively indoors or on a leash with owner.

Section 6. Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. No unsightly materials or other objects of any kind are to be stored on any lot in view of the general public.

Section 7. Easements. Easements for installation and maintenance of utilities and drainage facilities are served as shown on the plat to be recorded.

#### ARTICLE VII

#### GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Any Owner in violation of any restriction, condition or covenant shall, in addition to any other obligation it may be responsible for be liable for the costs of enforcement and collection including but not limited to reasonable attorneys' fees.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force

and effect.

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Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five (75%) of the Lot Owners. Any amendment must be recorded in the office of the Davis County Recorder, State of Utah.

Section 4. Annexation. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of member.

Section 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restriction.

Section 6. Property Taxes. Each unit and its percentage of undivided interest in the Common Areas and facilities shall be deemed to be a parcel and shall be subject to separate assessment and taxation by each assessing unit and special district for types of taxes authorized by law as provided in Title 57-8-27 Utah Code Annotated, 1953, as amended.

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IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 28<sup>th</sup> day of JUNE, ~~1992~~ 1993

Country Hills Inc.,  
a Utah Corporation, Declarant

By [Signature]  
Mark A. Jackson  
Vice-President

\_\_\_\_\_  
Secretary

State of UTAH  
County of DAVIS } ss.

On the 28<sup>th</sup> day of JUNE, 1993, personally appeared before me MARK A. JACKSON, who being by me duly sworn says that he is the VICE-PRESIDENT of COUNTRY HILLS INC

the corporation that executed the above and foregoing instrument and that said instrument was signed in behalf of said corporation by authority of a resolution of its board of directors and the said MARK A. JACKSON acknowledged to me that the said corporation executed the same.

In witness whereof I have herewith set my hand and affixed my seal this 28<sup>th</sup> day of JUNE 1993

[Signature]  
Notary Public

