

RED NOTE AB

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HIGH COUNTRY TITLE

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ALAN SPRIGGS  
SUMMIT COUNTY RECORDER

REC'D BY BH 19-80

DECLARATION OF  
PROTECTIVE COVENANTS

THIS DECLARATION is made this 3 day of MAY,  
1989, by DEER VALLEY RESORT COMPANY, a Utah limited partnership,  
(hereinafter designated "Declarant").

1. PURPOSE OF COVENANTS

1.1 It is the intention of Declarant, expressed by its execution of this instrument, that the property in Park City, Summit County, Utah, situated within the boundaries described in Exhibit 1 attached hereto (hereinafter designated the "Property") be developed and maintained as a highly desirable residential and commercial resort area. It is the purpose of these covenants that the present natural beauty shall always be protected insofar as is possible in connection with the uses and structures permitted by this instrument. Declarant hereby declares that the Property and every part thereof is held and shall be held, conveyed, devised, leased, rented, encumbered, used, occupied and improved and otherwise affected subject to the provisions of this Declaration, each and all of which provisions are hereby declared to be in furtherance of the general plan and share of ownership referred to herein and are further declared to be for the benefit of the Property and every part thereof and for the benefit of each owner thereof. All provisions hereof shall be deemed to run with the land as covenants running with the land or as equitable servitudes as the case may be, and shall constitute benefits and burdens to the Declarant, its successors and assigns, and to all parties hereafter owning any interest in the Property.

II. DEFINITIONS

2.1 Declarant: "Declarant" means Deer Valley Resort Company.

2.2 Property: "Property" means that certain real property located in Summit County, Utah, described in Exhibit 1 attached hereto.

2.3 Building: "Building" means any building or structure constructed on the Property.

2.4 Unit: "Unit" shall mean any residential apartment or room or commercial space constructed on the Property.

### III. APPROVAL

3.1 Approval by Declarant: No improvements of any kind, including but not limited to units, swimming pools, ponds, parking areas, fences, walls, tennis courts, garages, drives, antennae, flag poles, curbs and walks shall ever be erected, altered, or permitted to remain on any lands within the Property, nor shall any excavating, clearing, removal of trees, or shrubs, or landscaping be done on any lands within the Property, unless the complete plans and specifications therefor are approved by the Declarant prior to the commencement of such work. The Declarant shall consider the materials to be used on the external features of said buildings or structures, including exterior colors, harmony of external design with existing structures within the Silver Lake Village development, of which the Property is a part, location with respect to topography and finished grade elevations and harmony of landscaping with the natural setting and surroundings. The complete architectural plans and specifications must be submitted in duplicate, must include at least four different elevation views. One complete copy of plans and specifications shall be signed for identification by the owner and left with the Declarant. In the event the Declarant fails to give notice to the party submitting the same of its disapproval of said plan or specifications within 15 days after complete plans for such work have been submitted to it, then all of such submitted plans shall be deemed to be approved. Approval by Declarant shall not be unreasonably withheld.

3.2 Variances: The Declarant has the authority to deviate from the requirements contained herein in extenuating circumstances, when following these covenants would create an unreasonable hardship or burden for a property owner.

3.3 General Requirements: The Declarant shall exercise its best judgment to see that all improvements, construction, landscaping, and alterations on the lands within the Property conform and harmonize with the natural surroundings and with existing structures as to external design, materials, color, siting, height, topography, grade and finished grade elevation in keeping with the Design Guidelines. All improvements to the Property shall be in compliance with the master plan for Silver Lake Village approved by Park City, Utah. The architecture and materials

used for any building or structure constructed on the Property shall be compatible with and similar to the architecture of and materials used for the Silver Lake Lodge and the Stein Eriksen Lodge which are adjacent to the Silver Lake Village development of which the Property is a part. The external surfaces of all Buildings must be finished with natural materials such as wood siding or stone and shall remain natural in color or stained or painted with earth tone colors.

3.4 Preliminary Approvals: Persons who anticipate constructing improvements on lands within the Property, whether they already own lands or are contemplating the purchase of such lands may submit preliminary sketches of such improvements to the Declarant for informal and preliminary approval or disapproval. All preliminary sketches shall be submitted in duplicate and shall contain a proposed site plan together with sufficient general information on all aspects that will be required to be in the complete plans and specifications to allow the Declarant to act intelligently on giving an informed preliminary approval or disapproval. The Declarant shall never be finally committed or bound by any preliminary or informal approval or disapproval until such time as complete plans and specifications are submitted and approved or disapproved.

3.5 Plans: The Declarant shall disapprove any plans submitted to it which are not sufficient for it to exercise the judgment required of it by these covenants.

3.6 Declarant Not Liable: The Declarant shall not be liable in damages to any person submitting any plans for approval, or to any owner or owners of lands within the Property, by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove, with regard to such plans. Any person or group acquiring the title to any of the Property or any person submitting plans to the Declarant for approval, by so doing shall be deemed to have agreed and covenanted that he, she, or they will not bring any action or suit to recover damages against the Declarant, its officers as individuals, or its advisors, employees, or agents.

3.7 Occupancy: No Building within the Property shall be occupied until and unless the owner of any Building shall have completed the Building in accordance with, and complied with, all approved plans and specifications.

#### IV. GENERAL RESTRICTIONS ON ALL PROPERTY

4.1 Zoning Regulations: No lands within the Property shall ever be occupied or used by or for any Building

or purpose or in any manner which is contrary to the zoning regulations applicable thereto validly in force from time to time.

4.2 No Mining, Drilling or Quarrying: No mining, quarrying, tunneling, excavating or drilling for any substances within the earth, including oil, gas, minerals, gravel, sand rock, and earth, shall ever be permitted on the surface of the Property.

4.3 No Business Uses: Except as expressly permitted by Declarant, the surface of the lands within the Property shall be used exclusively for residential living purposes, such purposes to be confined to approved Buildings within the Property. Nothing in this Paragraph 4.3 shall be deemed to prevent (a) an owner or his duly authorized agent from using any Unit owned by said owner as a sales model, or (b) any owner or his duly authorized agent from renting or leasing Units, subject to all of the provisions of this Declaration, or (c) with the express written approval of Declarant, the development of retail commercial facilities including those normally associated with hotel or lodge operations, including restaurant, bar, lobby, meeting and banquet rooms, and support commercial shops related to a hotel or lodge operation.

4.4 Restriction of Signs: With the exception of a sign no larger than three square feet identifying the architect and a sign of similar dimension identifying the prime contractor to be displayed only during the course of construction and a sign no larger than three square feet for the owner to advertise his Unit for Sale, no signs or advertising devices, including but without limitation, commercial, political, informational or directional signs or devices, shall be erected or maintained on any of the Property, except signs approved in writing by the Declarant as to size, materials, color and location: (a) as necessary to identify the address; (b) as necessary to give directions; (c) to advise of rules and regulations; (d) to caution or warn of danger; (e) as may be required by law; and (f) appropriate sign to identify the name of the apartment or condominium project or the business being conducted. Signage approved by Declarant pursuant hereto shall conform to a common theme and utilize common materials throughout the Silver Lake Village development of which the Property is a part.

4.5 Underground Utility Lines: All water, gas, electrical, telephone and other electronic pipes and lines and

all other utility lines within the limits of the Property must be buried underground and may not be exposed above the surface of the ground.

4.6 Service Yards: All equipment and service areas on any portion of the Property shall be kept screened by approved planting or fencing so as to conceal them from the view of neighboring streets, access roads and other buildings in the Silver Lake Village development.

4.7 Maintenance of Property: All Property and all improvements on any portion of the Property shall be kept and maintained by the owner thereof in clean, safe, attractive and slightly condition and in good repair, all in a first-class manner equivalent to the standards to which the Deer Valley Resort is maintained.

4.8 No Noxious or Offensive Activity: No noxious or offensive activity shall be carried on upon any Property nor shall anything be done or placed on any Property which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others.

4.9 No Hazardous Activities: No activities shall be conducted on any Property, and no improvements shall be constructed on any Property, which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any Property; and no open fires shall be lighted or permitted on any Property except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed fireplace.

4.10 No Unsightliness: No unsightliness shall be permitted upon any of the Property. Without limiting the generality of the foregoing, (a) any unsightly structures, facilities, equipment, tools, boats, vehicles other than automobiles, objects or conditions shall be enclosed within an approved Building or appropriately screened from view, except equipment and tools when in actual use for maintenance or repairs; (b) no trailers, mobile homes, tractors, truck campers or trucks other than pickup trucks shall be kept or permitted to remain upon the Property; (c) no vehicle, boat or equipment shall be constructed, reconstructed, repaired or abandoned upon any of the Property; (d) no lumber, grass, shrub or tree clippings, plant waste, metals, bulk materials or scrap shall be kept, stored or allowed to accumulate on any of the

Property, except in service yards meeting the requirements of Section 4.6; (e) refuse, garbage and trash shall be placed and kept at all times in a covered container and such container shall be kept within an enclosed structure or appropriately screened from view; (f) hanging, drying or airing of clothing or household fabrics shall not be permitted within Buildings or on the Property if visible from Buildings, or areas surrounding the Property.

4.11 No Annoying Lights, Sounds or Odors: No light shall be emitted from any Lot or Property which is unreasonably bright or causes unreasonable glare or does not comply with the Design Guidelines; no sound shall be emitted from any Lot or Property which is unreasonably loud or annoying including but without limitation, speakers, horns, whistles, bells or other sound devices, except security and fire alarm devices used exclusively to protect any of the Property or Buildings; and no odors shall be emitted from any Lot or Property which are noxious or offensive to others.

4.12 Drainage: No owner shall have the right to alter or obstruct the flow of runoff water or storm drainage, from or across any of the said Lots into the drainage system for the property established by or with the approval of Declarant.

## V. RESTRICTIONS

5.1 Roof Overhang and Roofing Materials: All buildings shall be constructed with a minimum roof overhang of not less than three feet on all elevations. In order to minimize roof leaks, all roofs must be cold roofs or double roofed with the underlay roof being three-ply asphalt hot mopped covered by fire resistant wood shingles or wood shakes, thick butt asphalt shingles or similar roofing materials and must be designed so that all roof areas drain.

5.2 Icicles and Ice Build-up: Building designs must consider and address the danger caused by falling ice and accumulation of ice on walks and building entrances.

5.3 Structural Certification: All building designs must be approved and certified by a qualified licensed structural engineer. Particular attention should be given to snow load on roofs and frost line depth for foundations and plumbing installations.

5.4 Protection to Minimize Problem of Frozen Pipes: Water lines and sewer wastelines shall not be installed in the outside walls, overhangs, or in uninsulated attic or crawl spaces.

5.5 Insulation and Weatherstripping: The following list is the minimum insulation and weatherstripping requirements in all Buildings:

- a. All outside walls minimum insulation factor of R-15.
- b. All ceilings separating attic from roof minimum insulation factor R-25;
- c. All vaulted ceilings that are also the roof minimum insulation factor R-25;
- d. Exposed underfloor areas minimum insulation factor R-25;
- e. Underfloor areas over crawl space minimum insulation factor R-10;
- f. Perimeter concrete foundation walls to be insulated with a minimum of one inch of rigid insulation;
- g. All outside windows must be double glazed to provide an air space between for insulation;
- h. All outside doors and windows must be weatherstripped on all edges.

5.6 Height Limitations: No buildings shall be erected to a height greater than 59 feet, measured from elevation 8122 feet to midpoint of roof. Peak of roof shall not exceed elevation 8186 feet. No more than 70 continuous linear feet of any building may exceed three levels.

5.7 Fencing: Perimeter fencing will not be allowed. Perimeter fencing is defined to mean fences along or near Property lines or fencing not connected with a building or structure. Interior fencing, screens or walls which are associated or connected with a building are permitted if they are of such design, materials and heights as may be approved by Declarant and conform to the Design Guidelines.

5.8 Towers and Antennae: No towers, and no exposed or outside radio, television or other electronic antennae shall be allowed or permitted to remain on the Property.

5.9 Used or Temporary Structures: No used or previously erected or temporary house, structure, house trailer, mobile home, camper, or nonpermanent outbuilding shall

ever be placed, erected, or allowed to remain on the Property except during construction periods, and no dwelling shall be occupied in any manner prior to its completion in accordance with Section 3.7 hereof.

5.10 Flashings and Roof Gutters: Flashing or roof gutters or other metal fittings on the exterior of Buildings shall be painted to match adjacent materials on Buildings.

5.11 Automatic Fire Sprinkler Systems: All buildings must contain an automatic fire sprinkler system or other automatic fire extinguishing system approved in writing by the Park City Building Department.

5.12 Walls: All lower walls, i.e., foundation walls, shall be required to be faced on the exterior with natural stone.

5.13 Acoustics: The following list is the minimum acoustical standard in all Buildings:

- a. Lockoff bedrooms shall have a minimum sound transmission class (STC) rating of 60 for walls separating such bedroom from the other occupied areas and 50 for walls separating the bedroom from corridors.
- b. Doors should have a minimum STC rating of 40
- c. Party walls should have a minimum STC rating of 60.
- d. Walls within each unit other than lockoff bedrooms should have a minimum STC rating of 50.
- e. The minimum impact isolation class rating (IIC) for floors and ceilings above kitchens, hallways and bathrooms should be 50. For floors above living and dining rooms should be 55 and for bedrooms should be 60.

## VI. MAINTENANCE

6.1 Maintenance Obligations of Owners: It shall be the duty of each owner of the Property or of any Building or Unit on the Property, at his sole cost and expense, subject to the provisions of this Declaration regarding Declarant approval, to maintain, repair, replace and restore his Property or his Building or Unit on the Property in a neat, sanitary and attractive condition, all in a first-class manner equivalent to the standards to which the Deer Valley Resort is maintained.

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In the event that any owner shall permit any improvement, which is the responsibility of such owner to maintain, to fall into disrepair, or not to be so maintained so as to create a dangerous, unsafe, unsightly or unattractive condition, or to otherwise violate this Declaration, the Declarant shall have the right, but not the duty, upon thirty (30) days prior written notice to such owner, to correct such condition and to enter upon such owner's Property, Building or Unit to make such repairs or to perform such maintenance and the cost thereof shall be charged to the owner. The owner shall pay promptly all amounts due for such work, and the costs and expenses of collection may be added.

## VII. ENFORCEMENT

7.1 Enforcement and Remedies: The obligations, provisions, covenants, restrictions and conditions contained in this Declaration shall be enforceable by Declarant or by any owner of a Unit subject to this Declaration. If court proceedings are instituted in connection with the rights of enforcement and remedies provided in this Declaration, the prevailing party shall be entitled to recover its costs and expenses in connection therewith, including reasonable attorney's fees. The failure to enforce any of the covenants contained in this Declaration shall not constitute a waiver of the right to enforce the same thereafter.

7.2 Protection of Encumbrances: No violation or breach of any provision, restriction, covenant or condition contained in this Declaration and no action to enforce the same shall defeat, render invalid or impair the lien of any mortgage or deed of trust taken in good faith and for value and perfected by recording prior to the time of recording of an instrument giving notice of such violation or breach, or the title or interest of the holder thereof or the title acquired by any purchaser upon foreclosure of any such mortgage or deed of trust. Any such purchaser shall, however, take subject to the Declaration except only that violations or breaches which occur prior to such foreclosure shall not be deemed breaches or violations hereof with respect to such purchaser, his heirs, personal representatives, successors and assigns.

7.3 Limited Liability: The Declarant or any officer, agent or employee of the Declarant shall not be liable to any party for any action or for any failure to act with respect to any manner if the action taken or failure to act was in good faith and without malice.

VIII. GENERAL PROVISIONS

8.1 Duration of Declaration: Any provision, covenant, condition or restriction contained in this Declaration which is subject to the common law rule sometimes referred to as the rule against perpetuities, shall continue and remain in full force and effect for the period of twenty years. All other provisions, covenants, conditions and restrictions contained in this Declaration shall continue and remain in full force and effect until January 1, 2029, A.D., provided however, that unless at least one year prior to said time of expiration, there is recorded an instrument directing the termination of this Declaration, executed by Declarant and by the owners of not less than 90% of the Units then subject to this Declaration, said other provisions, covenants, conditions and restrictions shall continue automatically for an additional ten years and thereafter for successive periods of ten years unless, at least one year prior to the expiration of any such extended period of duration, this Declaration is terminated by recorded instrument directing termination signed by the Declarant and by the owners of not less than 90% of the Units then subject to this Declaration as aforesaid.

8.2 Severability: Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or valid and enforceable part of a provision of this Declaration.

8.3 Constructive Notice and Acceptance: Every person who owns, occupies or acquires any right, title, estate or interest in the Property, or Building on the Property, or a Unit in a Building on the Property, does and shall be conclusively deemed to have consented and agreed to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in the Properties, or any portion thereof.

8.4 Easements for Public Service Use: There shall be and Declarant hereby reserves and covenants for itself and all future owners within the Property, easements for city, county, state and federal public services, and for public utilities, including but not limited to, the rights of the police to enter for the purpose of enforcing the law.

8.4 Notices: Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States mail, postage prepaid, at the mailing address of such person as listed on the tax rolls of the records of the Summit County Assessor's or Treasurer's office.

8.5 Interpretation: The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for development. The article and section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine and neuter shall each include the masculine, feminine and neuter.

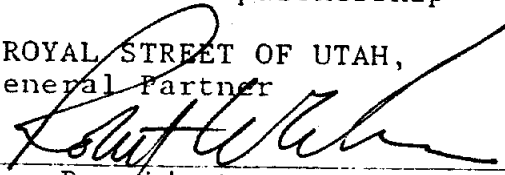
8.6 Captions: The captions and headings in this instrument are for convenience only and shall not be considered in construing any provision, restriction, covenant or condition contained in this Declaration.

8.7 No Waiver: Failure to enforce any provision, restriction, covenant or condition in the Declaration shall not operate as a waiver of any such provision, restriction, covenant or condition or of any other provision, restriction, covenant or condition.

IN WITNESS WHEREOF, Deer Valley Resort Company has executed this Declaration the day and year first above written.

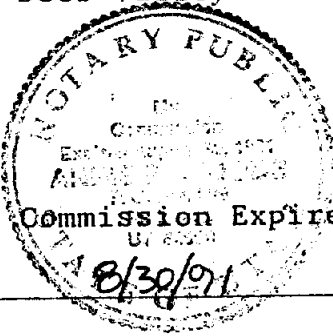
DEER VALLEY RESORT COMPANY,  
a Utah limited partnership

By ROYAL STREET OF UTAH,  
a General Partner

  
Vice President

STATE OF UTAH )  
 )  
 ) ss.  
COUNTY OF SUMMIT )

The foregoing instrument was acknowledged before me this 3 day of MAY, 1989, by Robert W. Wells, of Royal Street of Utah, a corporation which is a general partner of Deer Valley Resort Company, a limited partnership.



Annis E. Woods  
NOTARY PUBLIC  
Residing at: Park City

My Commission Expires:

8783W

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EXHIBIT 1

DESCRIPTION OF  
SILVER LAKE VILLAGE

BEGINNING at a point which is South 653.91 feet and East 677.23 feet from the Southwest corner of Section 22, Township 2 South, Range 4 East, Salt Lake Base and Meridian; (basis of bearing: North  $00^{\circ}40'31''$  East 2631.42 feet from the Southwest corner of said Section 22 to the East quarter corner of Section 21), said point also being on the Southerly right of way line of Royal Street East (formerly Silver Lake East Road, as dedicated) and on a 275.00 foot radius curve to the left (center bears North  $24^{\circ}34'16''$  East 275.00 feet of which the central angle is  $24^{\circ}34'16''$ ); thence Southeasterly along the arc of said curve and Southerly right of way line 117.93 feet to a point on a 212.36 foot reverse radius curve to the right (center bears South 212.36 feet of which the central angle is  $53^{\circ}30'00''$ ); thence Southeasterly along the arc of said curve and Southerly right of way line 198.29 feet to a point of tangency; thence South  $36^{\circ}30'00''$  East along said Southerly right of way line 11.96 feet to a point on a 178.68 foot radius curve to the left (center bears North  $53^{\circ}30'00''$  East 178.68 feet of which the central angle is  $93^{\circ}07'42''$ ); thence Northeasterly along the arc of said curve and Southerly right of way line 290.43 feet; thence South  $19^{\circ}30'00''$  East 40.71 feet; thence south  $08^{\circ}45'00''$  East 196.13 feet; thence North  $81^{\circ}00'00''$  West 52.23 feet; thence South  $48^{\circ}10'00''$  West 150.45 feet; thence South  $09^{\circ}00'00''$  West 44.96 feet; thence South  $75^{\circ}28'00''$  West 236.29 feet to a point on the Easterly line of Stein Eriksen Lodge, a Utah Condominium Project, as recorded; thence North  $12^{\circ}20'00''$  West along said Easterly line 368.89 feet; thence North  $29^{\circ}30'00''$  West along the Northeasterly line of said project 241.89 feet; thence North  $24^{\circ}34'16''$  East 10.00 feet to the point of BEGINNING.