

AFTER RECORDING MAIL TO:
EDWIN T. GALLACHER
307 WEST 200 SOUTH
SALT LAKE CITY, UTAH 84101

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NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
FIRST AMERICAN TITLE
REC BY: V ASHBY DEPUTY - WY

GLACIO PARK #2
HOMEOWNERS ASSOCIATION DECLARATION

THIS DECLARATION is made this 14th day of June, 1996, by GLACIO-CCB JOINT VENTURE, EDWIN T. GALLACHER, DANIEL MAHFOOD AND JOAN E. MAHFOOD, JOHN D. MITCHELL AND SANDRA G. MITCHELL.

WITNESSETH:

WHEREAS the undersigned are owners of the following described real property, hereinafter collectively referred to as "Glacio Park #2":

Lots 1-12 of Glacio Park #2, a subdivision in Salt Lake County, Utah, filed for record on June 5, 1995, in the Office of the Salt Lake County Recorder, Utah, and recorded in Book 95-6P at Page 134;

WHEREAS the undersigned desire to create and provide for the maintenance of a high quality residential neighborhood and to preserve and enhance the values, desirability and attractiveness of the neighborhood,

NOW, THEREFORE, to provide the means necessary to bring this about, the undersigned, for themselves and their successors and assigns, and for their future grantees, hereby subjects said Lots in Glacio Park #2 to the following covenants, charges and assessments.

1. DEFINITION OF TERMS

For purposes of this declaration, the following definitions shall apply:

- a. "Declaration" shall mean this Glacio Park #2 Homeowners Association Declaration, as filed with the Salt Lake County Recorder, Utah, as such Declaration may from time to time be amended.
- b. "Covenants" shall mean the Glacio Park #2 Declaration of Restrictive Covenants, as filed with the Salt Lake County Recorder, Utah, as such Covenants may from time to time be amended.
- c. "Developer" shall mean Glacio-CCB Joint Venture, its successors and assigns.
- d. "Owner" shall mean the record owner or owners in fee simple of any Lot, including the Developer, but excluding those having such interest merely as security for the performance of an obligation.
- e. "Association" shall mean Glacio Park #2 Homeowners Association, a Utah not-for-profit corporation.
- f. "Board" shall mean the Board of Directors of the Glacio Park #2 Homeowners Association.
- g. "Assessment" shall mean any Annual Assessment or Special Assessment or installment thereof, which is levied on Lots by the Association in accordance herewith.

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h. "Neighborhood" shall mean all of the above-described lots in Gladio Park #2, all Common Areas, and all additional property which hereafter may be made subject hereto in the manner provided herein.

i. "Common Area" shall mean all street rights-of-way, easements, tracts, open spaces and similar places, together with all improvements which may be situated thereon, including, without limitation, sidewalks, walls, fencing, monuments, sculptures, landscaping, lighting, irrigation and security systems, which are intended for the general use, benefit or enjoyment of all the Owners in the Neighborhood.

j. "Lot" shall mean any lot shown as a separate lot on any recorded plat of all or part of the Neighborhood as defined below; provided, however, that if an Owner, other than the Developer, owns all or parts of one or more adjacent lots upon which only one residence has been, is being, or will be constructed, then such adjacent property under common ownership shall be deemed to constitute only one "Lot."

2. MEMBERSHIP

The membership of the Association shall be limited to the Owners of Lots within the Neighborhood. Every person or entity who is a record owner of a fee interest in any Lot, including a contract seller, shall be a member of the Association; provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member. The Association shall be the sole judge of the qualification of its members and of their right to participate and vote in its meetings and proceedings, except as herein provided. Unless specifically provided herein to the contrary, decisions by the Association described herein shall require approval of a majority of the votes of members of the Association.

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3. VOTING RIGHTS

For so long as the Developer owns any Lot in the Neighborhood, the Developer shall be entitled to have thirteen votes for each Lot it owns. Each other member shall have one vote for each Lot in which the member holds the interest required for membership by the preceding section and upon which the member shall not be delinquent in the payment of Assessments; provided, however, when more than one person holds such interest or interests in any Lot, all such persons shall be members, and the vote for such Lot shall be exercised as they, among themselves, shall determine, but in no event shall more than one vote be cast with respect to any such Lot. At any meeting of the Association, members may cast their vote in person or by proxy.

4. BOARD OF DIRECTORS

The Association shall have a Board of Directors not more than three in number who shall be charged with the management of the Association. For so long as the Developer owns any Lot in the Neighborhood, the Developer shall have the right to appoint all members of the Board of Directors of the Association and shall have the right to approve and the power to veto any and all actions of the Association. At such time when the Developer no longer owns any Lot in the Neighborhood or relinquishes its rights under the terms of this section, the Board of Directors shall be elected by a majority vote of the members of the Association.

5. DEVELOPER ACTING FOR ASSOCIATION

Until relinquished as set forth below, or until it no longer owns any Lot in the Neighborhood, the Developer shall have the right at its option to perform the duties, assume the obligations, levy and collect Assessments, and otherwise exercise the powers herein given to the Association, in the

same way and manner as though all of such powers and duties were hereby given directly to the Developer.

The Association contemplated by the terms of this Declaration shall not assume any of the rights herein provided for without the consent of the Developer and its written relinquishment of such rights. The Developer may, by appropriate agreement made expressly for that purpose, assign or convey to the Association any or all of the rights, reservations and privileges reserved by it in this Declaration, and upon such assignment or conveyance being made, the Association shall exercise and assume such rights.

6. COMMON AREAS

All Common Area shall be under the management and control of the Association subject to power exercised by the County of Salt Lake, State of Utah, or either of them.

7. POWERS AND DUTIES OF THE ASSOCIATION

In addition to the duties, rights and powers granted by other portions of this Declaration or by law, the Association shall have the following duties, rights and powers, any or all of which may be exercised or assumed by it when, at its discretion, it deems it to be necessary, advisable or desirable:

a. To enforce either in its own name or in the name of any Owner, any or all building or use restrictions which have been or may be imposed upon any of the land in the Neighborhood including, but not limited to, that certain Glacio Park #2 Declaration of Restrictive Covenants; provided, however, that this right of enforcement shall not serve to prevent amendment, modification or termination of the Covenants being made by parties having the right under the Covenants to make such amendment, modification or termination, nor shall it serve to prevent the assignment of those rights by the proper parties, whenever and wherever such right of assignment exists. The expense and cost of any such enforcement proceedings by the Association shall be paid for by it. Nothing herein contained shall be deemed to prevent any Owner from enforcing any provision of the Covenants in his own name. Neither the Association, nor any member or Director thereof, shall be liable to any lot owner or to any other party for any damage, loss or prejudice suffered or claimed on account of the failure to enforce said Covenants or to restrain a violation thereof. Failure of the Association to enforce any of said Covenants shall in no event be deemed a waiver of the right to do so thereafter as to the same violation or as to one occurring prior or subsequent thereto.

b. To plant, replant, remove, trim, care for, and protect trees, shrubbery, flowers and grass in Common Areas.

c. To remove loose material, trash and rubbish of all kinds in the Neighborhood, and to do any other things necessary or desirable in the judgment of the Board to keep unimproved property in the Neighborhood neat in appearance and in good order.

d. To provide for the design, construction, installation, maintenance, replacement, protection and operation of improvements which may be situated on Common Area including, without limitation, sidewalks, trails, walls, fencing, monuments, sculptures, landscaping, lighting, irrigation and security systems now existing or which may hereafter be constructed, placed or created on any Common Area.

e. To exercise such control over easements as may be required.

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f. To acquire and own the title to such real estate as may be reasonably necessary to carry out the purposes of the Association, and to pay taxes on such real estate as may be owned by it.

g. To perform the following additional services and duties whenever, in its sole discretion, it may deem it necessary, advisable or desirable, and when such services and duties are not available from any public source:

- (1) to provide for the plowing and removal of snow from sidewalks and streets,
- (2) to provide for the cleaning of streets, gutters, catch basins and sidewalks,
- (3) to erect and maintain street signs for purposes of identification, traffic control and public safety, and
- (4) to employ duly qualified police or security officers to provide additional protection for the Neighborhood.

h. To establish reasonable rules and regulations which shall govern the use of Common Area, which shall enable the Association to adequately carry out the provisions of this Declaration, or which the Board deems necessary for the convenience, benefit and enjoyment of the Owners.

i. To provide such means and employ such agents as will enable the Association to adequately and properly carry out the provisions of this Declaration, including, without limitation, the right to employ a professional real estate management company, subject, however, to the limitation of its rights to contract as provided in Section 10 below, and provided that any management contract shall provide that it is terminable by the Board for cause upon thirty (30) days written notice thereof.

j. To establish reserve accounts for repair and maintenance of Association property, to periodically review the adequacy thereof, and to maintain such reserve funds in interest-bearing accounts until expended for the benefit of the Association.

k. To obtain and maintain: (1) comprehensive liability insurance insuring the Association in such amount as it may determine, provided that such amount shall not be less than one hundred thousand dollars (\$100,000.00), covering all claims for personal injury and/or property damage arising out of a single occurrence; (2) adequate fire, hazard and other casualty insurance on any Common Area improvements for the full replacement value thereof. Each Owner shall be responsible for obtaining and paying for such Owner's own personal liability and property casualty insurance.

8. METHOD OF PROVIDING FUNDS

For the purpose of providing funds to enable the Association to exercise the powers, perform the duties, render the services, and purchase, construct, operate and maintain the improvements herein provided for, all Lots, other than those owned by the Developer, shall be subject to an Annual Assessment which shall be paid to the Association by the Owners thereof. By action of the Board, Annual Assessments may be made payable in monthly, quarterly or semi-annual installments. No Lot shall be subject to any Annual Assessment prior to its conveyance by the Developer.

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Notwithstanding anything herein to the contrary, the Developer, at its sole discretion, shall fix the amount of Annual Assessments for so long as it owns land within the Neighborhood. Thereafter, the Board shall from year to year fix the amount of Annual Assessments. (Until further action by the Developer or the Association, the amount of Annual Assessment for each Lot shall be at the rate of Two Hundred Fifty and 00/100 Dollars (\$250.00).

Notwithstanding anything herein to the contrary, the Annual Assessment upon each Lot shall not be increased by action of the Developer or the Board by an amount exceeding fifty percent (50%) of the preceding year's Annual Assessment, unless such increase is authorized by seventy-five percent (75%) of the votes of Owners in the Neighborhood, exclusive of the Developer.

All Lots, including those owned by the Developer, shall be subject to Special Assessments for capital improvements and/or repairs, in such amounts as the Association deems reasonably necessary, which shall be paid to the Association by the Owners thereof. Special Assessments may be levied by the Association if, at a meeting of the members especially called for the purpose and of which notice is given, seventy-five percent (75%) of the votes cast by Owners other than the Developer, and all votes cast by the Developer shall be in favor of such Special Assessments.

By acceptance of a deed to a Lot in the Neighborhood, each Owner thereof is deemed to covenant and agree to pay to the Association all Assessments established and levied against said Lot as herein provided.

The Association is hereby granted the right and authority to proceed against any Owner personally for the collection of Assessments, said right to be in addition to, and not to be construed as a limitation upon remedies and rights of the Association otherwise herein granted.

The first Annual Assessment hereunder shall be for the calendar year beginning January 1, 1996, and shall become due and payable thirty (30) days after such assessment. Thereafter, each Annual Assessment shall be due and payable on the first day of January of each year. Provided, however, the first Annual Assessment for any Lot conveyed by the Developer to the first owner thereof after January 1, 1996, shall be due and payable at such conveyance, and the amount of such Assessment shall be a sum equal to the number of full calendar days remaining in the year after the date of such conveyance multiplied by an amount equal to one-three hundred sixty-fifth (1/365) of the regular Annual Assessment for such year.

It shall be the duty of the Association to give notice to all Owners on or before the date on which the Annual Assessment is due of the amount and due date of the Annual Assessment on each Lot owned by them. Failure of the Association to levy the Annual Assessment prior to January first of any year shall not invalidate any such Assessment subsequently levied for that particular year, nor shall failure to levy an Annual Assessment for any one year affect the right of the Association to do so for any subsequent year. When the Annual Assessment is levied subsequent to January first of any year, then such Assessment or the first installment thereon shall become due and payable 30 days after the date of levying.

9. DELINQUENCY AND COLLECTION

If any Owner fails to pay any Assessment within thirty (30) days from the date when it is due and payable, then such Assessment shall bear interest at the highest rate allowable under Utah law from the due date until paid. Non-payment of any Assessment provided for herein within sixty (60) days from the due date shall cause said Assessment to be deemed delinquent. Non-payment of any installment of any Assessment provided for herein within sixty (60) days from the due date of such installment shall cause the entire unpaid portion of said Assessment, including all installments of the then calendar year due in the future, to be deemed delinquent.

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Any Assessment provided for herein shall become a lien on each Lot against which it can be levied as soon as it is due and payable. Payment of both principal and interest shall be enforced by filing a lien on the affected Lot in the Office of the Salt Lake County Recorder and through foreclosure proceedings in any court in Salt Lake County, Utah, having jurisdiction of suits for enforcement of such liens. It shall be the duty of the Board to file and enforce such liens before the expiration thereof.

The Association shall have the power to bid at the foreclosure sale and to acquire and hold, lease, mortgage and convey any property acquired as a result of a successful bid. Suit to recover money charged for unpaid assessments may be maintained without foreclosing or waiving the lien securing the same. In the event of nonpayment, foreclosure, or if a lawsuit is filed, the Association shall be entitled to all costs and attorneys fees incurred. Before exercising any such rights of foreclosure, the Association shall give notice to any holder of a prior trust deed or mortgage which might be affected thereby, of any default by an Owner which has not been cured within thirty (30) days in the performance of such Owner's obligations under this Declaration.

Liens of Assessments shall be subordinate to liens of any valid prior trust deed or mortgage now or hereafter placed upon any Lot, provided, however, that such subordination shall apply only to the Assessments which become due and payable prior to the sale of such Lot pursuant to a foreclosure of such trust deed or mortgage, or prior to a conveyance to the trustee or mortgagee. Such sale shall not relieve such Lot from liability for any Assessments thereafter becoming due, nor from the lien of any subsequent Assessments.

Such liens shall continue for a period of five (5) years from the date of delinquency, or the maximum amount allowed by law, whichever is shorter, unless within such time suit shall have been instituted for collection, in which case the lien shall continue until termination of the suit and until sale of the property under the execution of the judgment establishing the same.

10. EXPENDITURES LIMITED TO ASSESSMENTS FOR CURRENT YEAR

The Association shall at no time expend more money within any calendar year than the total amount of Assessments for that particular year plus any surplus which it may have on hand from previous Assessments; nor shall the Association enter into any contract whatsoever binding the Assessments of any future year to pay for any obligation, and no such contract shall be valid or enforceable against the Association, except for contracts for periods up to three (3) years for utilities and property maintenance, it being the intention that the Assessments for each year shall be applied as far as practicable toward payment of the obligations of that year, and that the Association shall have no power to make a contract affecting Assessments of any future or subsequent year except for the purposes set forth above.

The Developer may, at its discretion, make cash advances to the Association to meet its net operating cash requirements.

11. NOTICES

At least one week prior to any meeting of the Association, the Board shall give notice to all Owners of the place, time, and purpose of such meeting, and shall designate the place where payment of Assessments shall be made and other business in connection with the Association may be transacted; and, in case of any change of said address, the Board shall notify all Owners of the Association's new address.

A written notice, deposited in the United States Post Office, with postage prepaid thereon, and addressed to the respective Owner at the last address listed with the Association, shall be

deemed to be sufficient and proper notice for these purposes, or for any other purpose of this Declaration where notices are required.

12. EXTENSION OF THE NEIGHBORHOOD

The Neighborhood may be extended at any time and from time to time by the Developer, at its discretion, to include any other lands added by the Developer to Glacio Park #2 by later plats; provided, however, that all of the land or lands to be added to the Neighborhood shall at that time be subjected to a Homeowners Association Declaration, containing the same terms and provisions as are contained in this Declaration. Extension of the Neighborhood shall be accomplished by and take effect on the filing of such plats and Homeowners Association Declarations in the Office of the Salt Lake County Recorder, Utah.

13. OBSERVANCE OF LAWS

The Association shall at all times observe all applicable state, county, city and other laws or regulations, and if at any time any provision of this Declaration shall be found to be in conflict with such laws, then such provision shall become null and void, but no other parts of this Declaration not in conflict therewith shall be affected thereby.

14. AMENDMENT AND TERMINATION

At any time, and from time to time, the Owners of seventy-five percent (75%) or more of the lots within the Neighborhood, together and only with the Developer may, by an appropriate instrument (in one or more counterparts) executed, acknowledged and filed for record in the Office of the Salt Lake County Recorder, Utah: (a) give additional powers or otherwise amend this Declaration; or (b) terminate this Declaration and release all of the lands then affected thereby from all of the terms and provisions hereof.

Anything set forth herein to the contrary notwithstanding, the Developer shall have the absolute, unilateral right, power and authority to amend any of the terms of this Declaration if either the Veteran's Administration ("VA") or the Federal Housing Administration ("FHA") or any successor agencies thereto shall require such action as a condition precedent to the approval by such agency of any Lots in the Neighborhood for federally approved mortgage financing purposes under applicable VA, FHA, or similar programs, laws and regulations.

15. COVENANTS RUNNING WITH THE LAND

All provisions of this Declaration shall be deemed to be covenants running with the land and shall be binding upon the Developer and the undersigned and their successors and assigns.

IN WITNESS WHEREOF, the undersigned have caused these presents to be executed the day and year first above written.

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GLACIO-CCB JOINT VENTURE

By: Clay Blair
Clay C. Blair, Managing Member
CCB Properties, L.L.C.

By: Edwin T. Gallacher
Edwin T. Gallacher, Operations Member
Glacio Park Development, L.L.C.

XXXXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXXXX

John D. Mitchell

John D. Mitchell

Sandra G. Mitchell

Sandra G. Mitchell

Daniel Mahfood

Daniel Mahfood

Jean E. Mahfood

Jean E. Mahfood

ACKNOWLEDGMENT

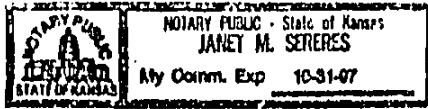
STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

On this 5 day of ~~June~~ ^{July} 1998, before me appeared Clay C. Blair, to me personally known, who, being by me duly sworn, acknowledged he is the Managing Member of CCB Properties, L.L.C., and that said instrument was signed on behalf of said limited liability company and said person acknowledged said instrument to be the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Janet M. Sereres
Notary Public

My Commission Expires:



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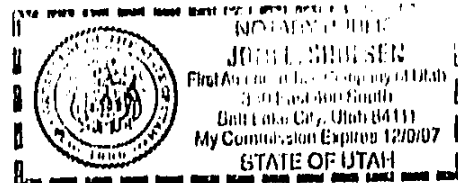
STATE OF UTAH .)
) ss.
COUNTY OF Salt Lake)

On this 17th day of June, 1998, before me appeared Edwin T. Gallacher, to me personally known, who, being by me duly sworn, acknowledged he is the Operations Member of Glaclo Park Development, L. L. C., and that said instrument was signed on behalf of said limited liability company and said person acknowledged said instrument to be the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

John L. Muijsen
Notary Public

My Commission Expires: 12/09/97



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STATE OF UTAH)
COUNTY OF _____) ss.

On this _____ day of June, 1996, before me, appeared Edwin G. Heinrich, Jr., who is personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public

My Commission Expires:

STATE OF UTAH)
COUNTY OF _____) ss.

On this _____ day of June, 1996, before me, appeared Theresa C. Heinrich, who is personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public

~~My Commission Expires: _____~~

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STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

On this 5 day of Aug, 1996, before me appeared John D. Mitchell, who is personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have herunto set my hand and affixed my official seal the day and year last above written.



Janet M. Sereres
Notary Public

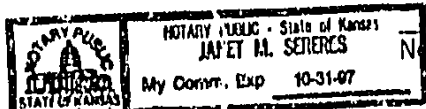
My Commission Expires:

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STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

On this 5 day of Aug, 1996, before me appeared Sandra G. Mitchell, who is personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have herunto set my hand and affixed my official seal the day and year last above written.



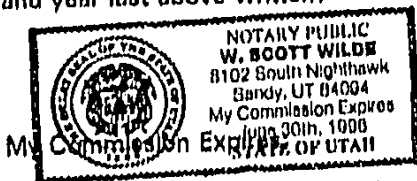
Janet M. Sereres
Notary Public

My Commission Expires:

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

On this 20th day of June, 1996, before me, appeared Daniel Mahfood, who is personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have herunto set my hand and affixed my official seal the day and year last above written.



W. Scott Wilde
Notary Public

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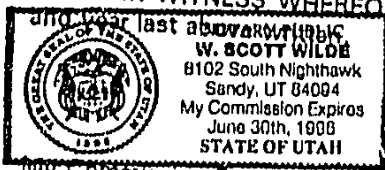
STATE OF UTAH

COUNTY OF SALT LAKE

)
) ss.
)

On this 20th day of June, 1996, before me, appeared Joan E. Mahfood, who is personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day



[Handwritten Signature]
 Notary Public

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