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GARY W. OTT  
RECORDER, SALT LAKE COUNTY, UTAH  
METRO NATIONAL TITLE  
BY: ARG, DEPUTY - UT 19 P.

When Recorded, Mail to:  
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**DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR  
SOMERSET RIDGE PHASE I,  
LOTS 1 THROUGH 62**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SOMERSET RIDGE PHASE I, LOTS 1 THROUGH 62 (this "Declaration"), is made this 11<sup>TH</sup> day of December, 2001, by ELK RIDGE DEVELOPMENT, INC., a Utah corporation ("Declarant").

**RECITALS:**

A. Declarant owns certain real property (the "Property") located in Salt Lake County, Utah, which is more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference.

B. On June 11, 2001, Declarant caused to be recorded in the Office of the Recorder of Salt Lake County, Utah the subdivision plat for Sommerset Ridge Phase I as Entry Number 7918522, pursuant to which, Declarant subdivided the Property into a residential subdivision known as Somerset Ridge Phase I, Lots 1 through 62, inclusive (the "Subdivision"), which Subdivision contains 62 single family residential lots. Declarant will develop and convey all of the Property within the Subdivision subject to a general plan of development and subject to certain covenants, conditions and restrictions, all as set forth in this Declaration, which are deemed to be covenants running with the land, mutually burdening and benefiting all of the Property and each of the Lots.

**ARTICLE I  
DECLARATION**

1.1 Declarant hereby declares that all of the Property shall be held, sold, conveyed, encumbered, leased, used, occupied and improved subject to and in strict accordance with all of the terms and conditions of this Declaration, including without limitation all of the covenants, conditions and restrictions set forth herein, all of which are created for the mutual benefit of the Owners of the Property and the Lots. It is the intention of the Declarant in imposing the covenants, conditions and restrictions set forth in this Declaration to create a generally uniform pattern of development of the Property and to protect and enhance the property values and aesthetic values of the Property by eliminating inconsistent uses or improvements, all for the mutual protection and benefit of the Owners of the Lots. All of the terms and conditions of this Declaration, including without limitation all covenants, conditions and restrictions set forth

28-33-130-014 TO 020  
202-007 TO 009  
0842808  
28-33-203-011 TO 018  
204-001 TO 015  
28-33-251-021 TO 031  
226-020 TO 036  
227-001 TO 006

herein, are intended to and shall in all cases run with the title of the land comprising the Property and shall be binding upon the Owners, their successors, assigns, heirs, lien holders, and any other person holding any interest in the Property and shall inure to the benefit of all other Property in the Subdivision. All of the terms and conditions of this Declaration, including without limitation the covenants, conditions and restrictions set forth herein, shall be binding upon Declarant as well as all of Declarant's successors in interest, and may be enforced by Declarant, by the Architectural/Technical Committee, or by any Owner.

Notwithstanding the foregoing, no provisions of this Declaration shall prevent Declarant from the completion of the Subdivision Improvements, or from using any Lot owned by Declarant as a model home, temporary construction or sales office, nor limit Declarant's right to post signs or engage in other reasonable activities on the Property incidental to sales or construction which are in compliance with the applicable ordinances of Draper.

## **ARTICLE II DEFINITIONS**

2.1 Unless the context clearly requires the application of a more general meaning, the following terms, whether capitalized or not, when used in this Declaration, shall have the following meanings:

"Architectural/Technical Committee" shall mean the committee created under Article IV of this Declaration.

"Declarant" shall mean and refer to Elk Ridge Development, Inc., a Utah corporation.

"Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions for Somerset Ridge, together with any subsequent amendments or additions, and any other matters or conditions shown on the official Plat of Somerset Ridge, which are incorporated into this Declaration by reference.

"Draper" shall mean the City of Draper, a Utah municipal corporation, and its appropriate departments and officials.

"Dwelling" shall mean the single family residence built or to be built on any Lot.

"Excavation" shall mean any disturbance to the surface of the land, including the removal of native vegetation, and also including trenching which results in removal of soil or rock from a depth of more than 12 inches from the natural surface of the land, or any grading of the surface. Excavation shall include any activities for which an excavation or grading permit would be required under the ordinances and regulations as adopted by Draper.

"Fill" shall mean the depositing of earth, soil, rock or other materials to the surface of the land, whether imported from offsite or resulting from the regrading of excavated material from on-site, to raise the natural elevation of the surface. Fill shall also include any fill material as defined under the ordinances and regulations as adopted by Draper.

"Improvements" shall mean all structures and appurtenances of every type and kind, including but not limited to buildings, Dwellings, garages and storage buildings.

"Lot" shall mean any numbered building Lot shown on the Plat.

"Owner" shall mean the person or persons having title to any Lot as shown on the Plat. Owner shall mean the person holding fee simple title, including the Declarant, and buyers under any contract for deed, but shall exclude any person or entity holding title for purposes of securing performance of an obligation.

"Permitted Improvements" shall mean any Improvements installed, constructed, maintained or allowed to stand on the Property in conformity with this Declaration.

"Person" shall mean a natural person or any legal entity with a right to hold title to real property in its own name in the State of Utah.

"Plat" shall mean Plat of Somerset Ridge, as approved by Draper and recorded in the Office of the Recorder of Salt Lake County, Utah, and any amendments that may be made from time to time.

"Property" shall mean all of Lots 1 through 62, inclusive, as described on the Plat, and the Roadways described or shown on the Plat. The term "Property" shall not mean nor include Lots B, C, and D, as shown on the Plat.

"Roadway" shall mean those portions of the Property that have been or will be dedicated to Draper as a public way.

"Subdivision" shall mean the subdivision known as Somerset Ridge, Phase I, Lots 1 through 62, inclusive, as shown on the Plat, and as it may be amended from time to time. The term "Subdivision" shall not mean nor include Lots B, C and D, as shown on the Plat.

### **ARTICLE III PURPOSE OF DECLARATION**

3.1 It is the purpose and intention of Declarant that the Property be developed and maintained as a highly desirable residential development. It is the purpose of this Declaration that the natural beauty, serenity, views and present surroundings of the Property shall be protected as much as possible in connection with the Improvements to be constructed on the Property and the uses permitted on the Property as set forth in this Declaration.

### **ARTICLE IV ARCHITECTURAL/TECHNICAL COMMITTEE**

4.1 Introduction. It is the intention and purpose of this Declaration to impose architectural design standards of a type and nature that will enhance the value, desirability and attractiveness of the Dwellings and Permitted Improvements to be constructed on the Property. The placement, massing, dimensions and materials of the Permitted Improvements will be guided, but still allow for diversity in style and vitality in design. To accomplish this goal, the

Declarant hereby establishes the Architectural/Technical Committee, which is empowered to oversee and enforce the provisions of this Declaration.

4.2 Architectural/Technical Committee Created. The Architectural/Technical Committee will consist of two (2) people appointed by the Declarant, who do not need to be Owners. At the time Dwellings have been constructed on 100% of the Lots, both members of the Architectural/Technical Committee will be elected by the Lot Owners. The above percentages are to be based on the total number of Lots in the Subdivision so that the Declarant is able to remain active in the administration and enforcement of this Declaration while Lots are being marketed.

4.3 Approval by Architectural/Technical Committee. No Improvements of any kind, including without limitation the construction or installation of any Dwelling, garage, out building, retaining wall or any other permanent structure may be constructed, installed, maintained or allowed to stand in the Subdivision without the prior written approval of the Architectural/Technical Committee. The construction of all Improvements must occur within the portion of a Lot which is approved for the construction of Improvements by the ordinances of Draper and also in compliance with all set back requirements set forth in this Declaration. No Excavation, Fill, grading, filling or draining shall be made without the prior written approval of the Architectural/Technical Committee. Approval of the Architectural/Technical Committee will be sought in the following manner:

(a) *Plans submitted.* A complete set of plans for the construction of any Improvement as described in Section 4.3 must be signed by the applicant and submitted to the Architectural/Technical Committee for review. It is recommended that preliminary plans be submitted before the expense of final construction drawings is incurred. The plans must be in sufficient detail to show the location on the Lot of the Improvements, including without limitation the exterior walls of any Dwelling and all other structures to be built with it; detailed drawings of all elevations of all buildings showing locations of windows, doors, roof pitches, decks and other exterior elements; a list of exterior materials (such as stucco, brick and/or stone) and roofing materials and samples of all exterior and roofing materials, including color samples. In the case of an addition or modification to an existing Dwelling, the Architectural/Technical Committee may waive any of the foregoing requirements.

(b) *Review.* The Architectural/Technical Committee shall exercise its best judgment in overseeing the construction of all Improvements on the Property within the Subdivision. The Architectural/Technical Committee shall consider the materials to be used on the external features of all Improvements, including but not limited to exterior material colors, harmony of external design with existing structures within the Subdivision, location with respect to topography and finished grade elevations and harmony of landscaping with the natural settings and surroundings. The Architectural/Technical Committee shall exercise its best judgment to prevent the duplication of exterior material colors utilized on Dwellings and other Improvements on different Lots in a proximity deemed (for aesthetic purposes) to be too close, as determined in the sole discretion of the Architectural/Technical Committee. While in receipt of a complete submission of the plans, the Architectural/Technical Committee will review the plans and make an initial determination whether or not the plans comply with the conditions imposed by this Declaration. If the plans do not comply, the plans will be rejected. If the plans are in

compliance, the Architectural/Technical Committee will stamp and approve the plans. The Architectural/Technical Committee may approve the plans subject to specific modifications or conditions. Owners may desire to submit preliminary plans to the Architectural/Technical Committee for informal and preliminary approval or disapproval. The Architectural/Technical Committee will review preliminary plans and the Architectural/Technical Committee will make its comments known to the Owner. However, no preliminary approval is to be considered a final approval, and no final approval will be granted on less than a complete submission of plans as set forth in this Declaration. Upon final approval, the Architectural/Technical Committee and the Owner will each sign a copy of the approved plans, which shall be left with the Architectural/Technical Committee. Any construction that is not in strict compliance with the approved plans is prohibited. Notwithstanding any provisions in the Declaration, all construction of any nature upon any of the Lots within the Subdivision shall be performed in compliance with the requirements of the land management code and the building and zoning ordinances of all governmental entities having jurisdiction with respect to the Subdivision.

(c) *Written Record.* The Architectural/Technical Committee will maintain a written record of its actions, and maintain in its files a copy of all plans approved until the construction of the Improvements is completed and until Draper has issued a final certificate of occupancy or other final approval with respect to such Improvements. The Architectural/Technical Committee shall have no duty to retain a copy of the plans after the construction of the Improvements has been completed.

(d) *Failure to Act.* If the Architectural/Technical Committee has not approved or rejected any submission within 45 days after the submission of complete plans, the submission shall be deemed to have been disapproved.

(e) *Permits and Approvals from Draper.* Notwithstanding any other provision of this Declaration to the contrary, prior to commencing the construction of any Improvements on any Lot, the Owner of each Lot must obtain from Draper all necessary permits and approvals required by Draper in connection with the construction of any such Improvements.

4.4 Variances. The Architectural/Technical Committee has the authority to deviate from the requirements contained in this Declaration under extenuating circumstances, when compliance with this Declaration would create an unreasonable hardship or burden for a Lot Owner. No such variance may be granted without the unanimous written consent of the Architectural/Technical Committee. The Architectural/Technical Committee does not, however, have the authority to deviate beyond the requirements of the land management code and the building code and zoning ordinances of all governmental entities having jurisdiction with respect to the Subdivision.

4.5 General Design Review. The Architectural/Technical Committee will use its best efforts to provide a consistent pattern of enforcement and consistent application of this Declaration that results in a high quality, attractive, and well-designed community.

4.6 Declarant and Architectural/Technical Committee not Liable. The Declarant and the Architectural/Technical Committee and its members shall not be liable to the applicant or to the Owners of any Lots within the Subdivision for damages or any other remedy as the result of

their actions, inactions, or approval or disapproval of any set of plans submitted to the Architectural/Technical Committee for review. In the absence of bad faith or malicious actions, the Owners shall have no claim against the Declarant, the Architectural/Technical Committee or its members as a result of the performance or failure to perform the duties created by this Declaration. Any person or persons acquiring title to any Lot in the Subdivision shall be deemed to have agreed and covenanted that such Owner will not bring any action or suit to recover damages against the Declarant or the Architectural/Technical Committee or its members, or the advisors, officers, employees or agents of the any of the foregoing, as a result of the performance by the Architectural/Technical Committee of its duties and responsibilities under this Declaration. Each Owner has the right to enforce this Declaration against another Owner.

4.7 Limitations on Review. The Architectural/Technical Committee's review is limited to those matters expressly described in this Declaration. The Architectural/Technical Committee shall have no authority over the enforcement of building codes, zoning ordinances, or other statutes, laws, or ordinances affecting the development or improvement of the Property and shall have no liability to any Owner whose plans were approved in a manner that included any such violation. The Architectural/Technical Committee shall not be responsible for reviewing, nor shall the approval by the Architectural/Technical Committee of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or compliance with any applicable building codes, zoning ordinances, or other statutes, laws or ordinances affecting the development or improvement of the Property. The structural integrity of any Improvements constructed within the Subdivision is not the responsibility of the Architectural/Technical Committee. Corrections or changes to plans as may be subsequently required to bring them into conformity with any applicable statutes, laws or ordinances must be reviewed and approved by the Architectural/Technical Committee prior to construction.

4.8 Approval to Proceed. The Architectural/Technical Committee shall stamp, date and sign the plans and make the plans available for the applicant to retrieve, once the plans for any Permitted Improvements have been approved.

## ARTICLE V

### RESTRICTIONS ON ALL PROPERTY

The following restrictions on use apply to all Property within the Subdivision:

5.1 Governing Regulations. The lawfully enacted zoning regulations of Draper and of any other governmental body having jurisdiction with respect to the Property, including without limitation any and all applicable building, fire, and health codes, are in full force and effect in the Subdivision, and no Lot may be occupied in a manner that is in violation of any such statute, law, ordinance or regulation. If the provisions of this Declaration are more stringent than any applicable governmental statute, law, ordinance or regulation, it is the intent that the provisions of this Declaration shall control. This Declaration shall not authorize any uses, improvements, or activities that are prohibited by any local, state or federal statute, law, ordinance or regulation.

5.2 No Mining Uses. No mining, quarrying, tunneling, excavating or drilling for any substances within the earth, including but not limited to oil, gas, minerals, gravel, sand, rock and earth, shall ever be permitted on the Property within the Subdivision. The foregoing limitation shall not preclude drilling and excavation in connection with the construction of roads, utility lines and other Permitted Improvements.

5.3 No Business or Commercial Uses. The Property within the Subdivision shall be used for residential purposes only. No portion of the Subdivision may be used for any commercial or business use, provided however that nothing in this provision is intended to prevent (a) the Declarant from using one or more Lots for purposes of a construction office or sales office during the actual period of construction of the Subdivision Improvements or until the Lots are sold, or (b) the use by any Owner of his Lot for a home occupation. No home occupation will be permitted, however, which requires or encourages the Owner's clients, customers, patients or others (in excess of five (5) per day) to come to the Lot to conduct business, or which requires any employees (in excess of five (5) per day) outside of the Owner's immediate family or household to come to the Lot to conduct business. No signs or other advertisements relating to any such home occupation shall be placed upon any of the Property within the Subdivision, nor shall any such sign or advertisement be visible from the outside of any of the Permitted Improvements constructed on the Property. No retail sales of any kind may be made in the Subdivision. All home occupations operated or conducted from any of the Lots within the Subdivision shall comply with all applicable local, state or federal statutes, laws, ordinances and regulations, including without limitation all statutes, laws, ordinances and regulations pertaining to licensing and permitting for the operation of any such home occupation.

5.4 Restrictions on Signs. No signs will be permitted on any Lot or within the Subdivision, except for traffic control and directional signs for Roadways placed by Draper or temporary signs warning of some immediate danger and except for such other signs as may be approved by the Architectural/Technical Committee. Signs indicating a Lot is for sale may be placed in accordance with Draper sign regulations. The Declarant may erect a sign acceptable to Draper at the entrance to the Subdivision announcing the availability of Lots and giving sales information. An entrance monument for the Subdivision may be constructed by Declarant, at Declarant's sole discretion.

5.5 Dwelling to be Constructed First. No garage, storage unit, or other out-building may be constructed on any Lot prior to the construction of the Dwelling on such Lot.

5.6 Animals. No animals, horses, livestock or poultry of any kind shall be raised or kept on any Lot, except that a total of three (3) dogs and/or cats may be kept on a Lot, provided that they are not kept or maintained for any commercial purpose, and provided further that all pets must be restrained upon the Owner's Lot in a humane and sanitary manner. No boarding of animals for hire shall be allowed within the Subdivision. Owners are required to be in control over their respective animals and pets in order to protect inhabitants of the Subdivision and other animals kept within the Subdivision. No dangerous or obnoxious animals will be allowed in the Subdivision. The Owner of each Lot shall make such Permitted Improvements as are necessary to assure that animals kept on such Owner's Lot do not trespass on other Lots.

5.7 No Hazardous Activity. No activity may be conducted on any Lot that is, or would be considered by a reasonable person to be, unreasonably dangerous or hazardous, or which would cause the cancellation of conventional property casualty insurance. This includes, without limitation, the storage of caustic, toxic, flammable, explosive or hazardous materials in excess of those reasonable and customary for household uses.

5.8 No Unsightliness. No unsightliness is permitted on any Lot. This requirement shall prohibit, without limitation, the open storage of any building materials (except during the construction of any Dwelling or Improvements); open storage or parking of construction equipment, trucks larger than pick-up trucks (except during periods of actual loading and unloading); accumulations of lawn or tree clippings or trimmings; accumulations of construction debris or waste; household refuse or garbage except as stored in tight containers in an enclosure such as a garage.

5.9 No Annoying Lights. No outdoor lighting shall be permitted except for lighting that is designed to aim downward and limit the field of light to the confines of the Lot on which it is installed. This shall not apply to street lighting maintained by Draper.

5.10 No Transient Lodging Uses. The Lots are to be used for residential housing purposes only and shall not be rented in whole or in part for transient lodging purposes, boarding house, "bed and breakfast," or other uses for providing accommodations to travelers.

5.11 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 on any Lot, except in sanitary containers approved by the Architectural/Technical Committee. All equipment for the storage or disposal of waste or rubbish shall be kept in a clean and sanitary condition and must meet the approval of the Architectural/Technical Committee.

5.12 Parking and Storage of Personal Property. No personal property, including but not limited to motor homes, boats, trailers, tent vehicles, campers and motorized vehicles, shall be placed or stored upon any Lot prior to the time the Owner thereof is ready to commence the construction of Permitted Improvements, and thereafter all such personal property shall be placed within the property lines of the Lot and not within the streets and shall not be parked or kept on any Lot, where such placement is visible from the street without first obtaining written approval from the Architectural/Technical Committee, which approval shall not be granted unless an acceptable parking pad is provided. The front of any such parking pad must be appropriately screened or fenced, as determined by the Architectural/Technical Committee. (Indoor storage of such vehicles is desired and strongly encouraged, and the design and construction of the garages should allow for such, where desired or necessary). The Owner of each Lot shall be obligated to construct on such Lot sufficient on-site parking on the Lot to accommodate all automobiles placed or parked on the Lot. No storage of any articles, material, equipment or vehicles of any nature is permitted in the front yard portion of any Lot, except that regularly used passenger cars and light pickup trucks may be parked on the driveway areas in the front yard. For the purposes of the foregoing sentence, the term "front yard portion of any Lot" shall mean the portion of any Lot between the front Lot line and the further-most point from the front Lot line to the front portion of any Dwelling, detached garage or other structure that faces toward the front Lot line. No automobiles, trucks, campers, trailers, tent vehicles, boats,

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equipment, recreational vehicles, motor homes or other similar vehicles shall be parked or stored on a public street or right of way within the Subdivision without the express written consent of the Architectural/Technical Committee.

## ARTICLE VI

### RESTRICTIONS ON LOTS

6.1 Dwelling and Ancillary Structures: No Dwelling or other Improvements shall be placed, erected, altered, or permitted to remain on any Lot other than one (1) single family Dwelling along with one (1) or more attached garages having a combined capacity for at least three (3) cars (which combined capacity for at least three (3) cars shall require that the openings to the garages must be wide enough to permit the three (3) cars to enter side-by-side, and which three (3) car capacity may not be satisfied by designing a garage deep enough to allow two (2) or more cars to park end-to-end) together with related Improvements, which may include detached garages and other structures, which have been approved by the Architectural/Technical Committee. Subject to the approval of the Architectural/Technical Committee, the required 3-car garage built on a Lot must be attached to the Dwelling and must be constructed and completed at the same time that the Dwelling is constructed and completed. The Dwelling on each Lot shall be used for private residence purposes only, and no structure of any kind shall be moved from any other location and placed upon a Lot, nor shall any incomplete building or Improvement of any type be permitted to remain incomplete on a Lot for a period in excess of one (1) year from the date the Improvement was started, unless otherwise approved by the Architectural/Technical Committee. No structure of a temporary character nor any trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently. No structure greater than one hundred (100) square feet in area may be built upon any Lot without the prior written consent of the Architectural/Technical Committee.

6.2 Finished Area Above Grade. The Dwelling constructed on each Lot in the Subdivision shall have the following minimum finished livable area above the grade where the front entrance to the Dwelling is located. A rambler-style Dwelling shall have a minimum finished livable area above grade of 2,500 square feet exclusive of any basements, garages, storage areas, porches, decks and patios. A Dwelling with multiple levels above the grade where the front entrance to the Dwelling is located shall have a minimum finished livable area above grade of 2,900 square feet, exclusive of basements, garages, storage areas, porches, decks and patios.

6.3 Completion of Dwelling. All construction and alteration work shall be prosecuted diligently, and each Dwelling which is commenced on any Lot shall be entirely completed within twelve (12) months after commencement of construction. A three (3) month grace period after the initial twelve (12) month period has expired may be granted by the Architectural/Technical Committee upon the showing of just cause for such grace period.

6.4 Towers, Satellite Receivers and Antennas: No towers, exposed or outside radio, television or other electronic antennae, with the exception of television receiving antennae, shall be allowed or permitted to remain on any Lot. Outside satellite receivers, in excess of twenty-

four (24) inches in diameter are not allowed, unless otherwise approved by the Architectural/Technical Committee.

6.5 Used or Temporary Structures: No used or previously erected or temporary house, structure, house trailer, mobile home, camper, or nonpermanent outbuilding shall be placed, erected, or allowed to remain on any Lot except during construction periods, and no Dwelling shall be occupied in any manner prior to its completion and the issuance by Draper of a certificate of occupancy for such Dwelling.

6.6 Minimum Architectural Requirements: The following shall be considered to be minimum architectural requirements with respect to Dwellings constructed within the Subdivision, although the Architectural/Technical Committee shall have broad discretion in the approval of plans for Dwellings constructed in the Subdivision and shall be entitled to consider factors in addition to the following minimum requirements:

(a) Exterior materials on all Dwellings shall be limited to brick, natural stone, cultured stone, stucco or wood. At least of fifty percent (50%) of the "front surface area" of each Dwelling within the Subdivision must be completed with exterior materials consisting of natural stone, cultured stone or brick. For purposes of the foregoing sentence, the "front surface area" of a Dwelling shall be the side of the Dwelling on which is located the main entrance to the Dwelling. The total "front surface area" of the Dwelling shall be calculated by adding all of the surface area beginning at one side of the front of the Dwelling and continuing to the other side of the front of the Dwelling, whether such surface areas are parallel to, perpendicular to, or at any other angle to the street that borders the front of the Dwelling and excluding therefrom for purposes of calculating the total "front surface area" all windows, garage doors and front doors that otherwise would be included in such calculation. No vinyl siding or aluminum siding shall be utilized on the exterior of any Dwelling, except that vinyl and aluminum materials may be utilized for soffits and fascia on any Dwelling. As provided in Section 4.3(b) of this Declaration, the Architectural/Technical Committee has the right to approve the color of exterior materials utilized on a Dwelling and on other Improvements within a Lot in order to prevent the duplication of exterior material colors utilized on different Lots in a proximity deemed (for aesthetic purposes) to be too close, as determined in the sole discretion of the Architectural/Technical Committee.

(b) No dome, A-frame or modified A-frame Dwellings shall be allowed or constructed.

(c) No prefabricated Dwellings or trailers shall be allowed or constructed.

(d) Roofs on all buildings shall be constructed with a minimum pitch angle of 6:12. Such minimum pitch angle shall not apply to roofs over patios and front porches. All roofs shall be made of fire resistant architectural shingles or other roofing materials approved by the Architectural/Technical Committee. The shingles must be a minimum of 30 year architectural grade. Metal accents on portions of a roof may be approved by the Architectural/Technical Committee.

(e) All buildings, structures and improvements on any Lot shall comply with the construction guidelines and specifications of the planning and building department of the governmental authority having jurisdiction over the Subdivision.

(f) All materials utilized for fencing on any Lot must be approved by the Architectural/Technical Committee. Vinyl fencing and vinyl railing materials are acceptable and are preferred.

(g) The exterior materials and roofing materials utilized on a detached garage on any Lot must be of the same materials and of the same colors as utilized on the Dwelling constructed on such Lot. The rooflines on the detached garage must be complimentary to the rooflines on the Dwelling, as approved by the Architectural/Technical Committee in its sole discretion. All detached garages, outbuildings, storage structures or other structures not attached to the Dwelling that are constructed on a Lot must be set back at least fifty (50) feet from any lot line fronting on any street and must be set back at least eight (8) feet from any side lot line or rear lot line.

(h) All retaining walls in excess of two (2) feet in height that are construction on any Lot must be approved by the Architectural/Technical Committee.

(i) Central air conditioning is required in all Dwellings. No "swamp coolers" or "evaporative coolers" are permitted.

(j) Where possible, side-entry garages rather than front entry garages are desired and encouraged throughout the Subdivision, but individual exceptions may be approved by the Architectural/Technical Committee in relation to the Lot size, individual building restrictions, the overall appearance, the best interest of the Subdivision, and the personal preference of the Owner.

6.7 Slope and Drainage Control. No Improvement, planting or other material shall be placed or permitted to remain, nor shall any other activities be undertaken, which may damage or interfere with established slope ratios, which create erosion or sliding problems, or which may change the direction or flow of drainage channels or obstruct or retard the flow of water through drainage channels. The slope control areas of each Lot and all Improvements within them shall be maintained continuously by the Owner of the Lot, except for those Improvements for which a public authority or utility company is responsible. All Lot Owners shall retain and control all water runoff from such Owner's Lot or Lots, so as not to damage or hinder other Lots or Owners.

6.8 Landscaping. The landscaping of the front yard of each Lot, including the planting of grass or the placement of sod, and the planting of at least a minimal number of shrubs or trees on the Lot, must be completed within eight (8) months after the date that the Dwelling on such Lot is initially occupied. The landscaping for the entire Lot shall be completed within one (1) year after the date that the Dwelling on such Lot is initially occupied. Of the plantable area located within the front yard within of each Lot, at least fifty percent (50%) of such plantable area must be landscaped with lawn. All landscaped areas shall be improved with a sprinkling system that is adequate to provide the necessary water for the types of grass, plants or trees that are planted within such area. Each Lot within the Subdivision shall have a "park strip," which is

defined to be that portion of the Lot between the curb and the sidewalk. Each Lot Owner shall landscape and maintain the park strip, and the landscaping within the park strip on each Lot shall include without limitation the number of trees for such Lot is as set forth and required in the schedule attached to this Declaration as Exhibit "B" and incorporated herein by this reference, and each of such required trees shall be 2-inch caliber trees of a species specified and approved by Draper or by the Architectural/Technical Committee. The Owner of each Lot shall install a sprinkling system within the park strip on such Owner's Lot to maintain the trees and other landscaping that is planted within the park strip. The Owner of each Lot shall be obligated to maintain in a state of good repair and attractive condition all portions of the Lot, including the front yard, back yard and side yards. The Owner of each Lot within the Subdivision shall keep such Owner's Lot clean of weeds and trash. If the Owner fails to do so, the Declarant or the Architectural/Technical Committee shall have the right to cause such maintenance work to be done and to cause the cost of such maintenance work to be charged to and paid by the Owner of such Lot. The recordation by the Declarant or the Architectural/Technical Committee in the Office of the Recorder of Salt County, Utah of a Notice of Charge against the Owner of any Lot shall constitute a lien against such Lot, which lien shall remain in effect until such amount, together with interest thereon at the rate of eighteen percent (18%) per annum from the date of such Notice of Charge, is paid. Thereupon the Notice of Charge shall be released of record.

## ARTICLE VII

### OWNERS' MAINTENANCE OBLIGATIONS

7.1 Duty to Maintain. It is the obligation of the Owner of each Lot to maintain properly such Owner's entire Lot and the Improvements and landscaping on the Lot (including without limitation all yards, fences, walkways, driveways, sidewalks and other concrete products) in a good state of repair and an attractive, safe, and healthy condition at all times in order to preserve and enhance the enjoyment of the Subdivision. No trash, garbage, ashes, refuse, junk, vehicles which are inoperable or in disrepair, underbrush or other unsightly growths or objects shall be maintained or allowed on any Lot. All fences and Improvements of any nature, including without limitation the Dwelling, shall be kept in a good state of repair, consistent with the Subdivision neighborhood standard. All permitted Improvements, including without limitation, all Dwellings, garages, and accessory buildings shall be painted or stained from time to time, so as to maintain a reasonable state of repair.

7.2 Alterations of Exterior Appearance. The Owners will maintain their Lots and Improvements in substantially the same condition and appearance as that approved by the Architectural/Technical Committee. No subsequent exterior alterations, improvements or remodeling, whether structural or cosmetic, will be made without the advance written consent of the Architectural/Technical Committee.

7.3 Repair Following Damage. In the event of casualty loss or damage to the Improvements, the Owner will be entitled to reconstruct the Improvements as they existed prior to the damage or loss without review by the Architectural/Technical Committee, provided however that alterations or deviations from the originally approved plans will require review. Nothing in this Declaration is intended to prevent an Owner who has suffered property damage or loss from taking temporary measures to secure the property and prevent further damage, or to

prevent injury or dangerous conditions following loss or damage, before reconstruction begins. Such temporary measures may be taken without the consent or approval of the Architectural/Technical Committee, provided that any such measures must be of a temporary nature, and repair or reconstruction must begin as soon as circumstances will permit. No damaged structure will be permitted to remain on any Lot for more than 90 days without repairs commencing, and any damaged structure which does remain unrepaired after 90 days following the occurrence of damage is deemed a nuisance which may be abated by the Architectural/Technical Committee.

## ARTICLE VIII

### CONSTRUCTION COVENANTS

8.1 Introduction. In order to minimize the disturbance of the Property within the Subdivision during any construction activities, and to minimize the inconvenience to adjoining Owners, the following construction regulations shall be enforced. These regulations shall be made a part of the construction contract between the Owner and the builder of each Dwelling or other Improvements on a Lot. The Owner shall be bound by these regulations, and violations committed by the builder or its employees, subcontractors or others shall be deemed a violation by the Owner for which the Owner shall be liable.

8.2 Construction Debris Removal. The builder must comply with the ordinances of Draper and the requirements of the Architectural/Technical Committee requiring the placement and maintenance of a trash container or dumpster on the Lot. The builder shall collect trash at the end of each work day and deposit construction trash, packing material, unusable scraps, and other debris in a suitable container, protected from the wind. Such container shall be regularly serviced. No trash may be burned, buried, or otherwise disposed of on the Property. Concrete trucks shall be cleaned out only on the Lot on which the concrete from such truck has been poured or on another Lot within the Subdivision owned by the Owner of the Lot on which the concrete from such truck has been poured.

8.3 Construction Area Appearance. The Lot must be maintained in a reasonably organized and neat condition at all times during the construction of a Dwelling or other Improvements. Once the Dwelling is enclosed, materials shall be stored inside the Dwelling and out of sight, whenever practical and possible.

8.4 Sanitary Facilities. The builder is responsible for the installation and maintenance of an approved portable toilet facility during construction. The portable toilet must be located on the Lot at a location approved by the Architectural/Technical Committee and must be removed from the site at such time as the permanent plumbing system is operational.

8.5 Construction Parking and Vehicles. Construction crews must park their vehicles on the Lot on which they are working or on the street in front of such Lot and shall not use or park on any other Lot or any other Property within the Subdivision. All vehicles must be parked to allow the free flow of traffic within the Subdivision. The access onto a Lot by construction equipment, construction vehicles or delivery trucks for the delivery of construction materials must be directly onto such Lot from the front of such Lot that faces the adjoining street, and no

such construction access or delivery to such Lot shall be obtained or accomplished by traveling through an adjoining Lot and entering such Lot through a side lot line or rear lot line.

8.6 Removal of Mud. The builder is responsible for cleaning up and removing mud from the construction site that is deposited on the Roadways of the Subdivision.

8.7 Duration of Construction. No construction shall be undertaken without a building permit and all other necessary permits from Draper and any other governmental entity having jurisdiction over construction on the site. No materials, tools, temporary offices or portable toilets, excavation or construction equipment or similar materials or equipment may be delivered to the site prior to the issuance of the permit(s). It is the obligation of the Owner to proceed with construction with all reasonable speed once construction has commenced, and in any event, all exterior surfaces of the Dwelling shall be substantially complete within a period of one year after commencement.

8.8 Repair of Damage. Each Owner is responsible for the prompt repair of any damage to any Property within the Subdivision caused by or incidental to such Owner's construction, including without limitation all cracked or broken sidewalks, curbs or gutters and also all damaged asphalt. The Declarant or the Architectural/Technical Committee, if necessary, may initiate legal action against any Owner for the repair of damage that occurs from construction activity pertaining to that Owner's Lot.

## ARTICLE IX

### GENERAL PROVISIONS

9.1 The covenants, conditions, and restrictions contained in this Declaration may be enforced as follows:

9.2 Violation Constitutes Nuisance. The violation of the provisions of this Declaration is deemed to be a nuisance, and the Owner of the Property on which the violation occurs is responsible for the removal or abatement of the nuisance.

9.3 Remedies.

(a) Any single or continuing violation of the covenants contained in this Declaration may be enjoined in an action brought by the Declarant (for so long as the Declarant is the Owner of any Lot), by any other Owner, or by the Architectural/Technical Committee in its own name. In any action brought to enforce these covenants, the prevailing party shall be entitled to recover as part of its judgment all of the reasonable costs of enforcement, including attorneys' fees and costs of litigation.

(b) Nothing in this Declaration shall be construed as limiting the rights and remedies that may exist at common law or under applicable federal, state, or local laws and ordinances pertaining to health, safety, abatement of nuisances or other matters. The remedies available under this Declaration are to be construed as being in addition to all other remedies available at law.

(c) The remedies available under this Declaration and at law or equity generally are not to be considered as exclusive, but rather as cumulative.

(d) The delay or failure by anyone to take enforcement action with respect to any violation of this Declaration shall not be construed as a waiver of the covenants contained in this Declaration with respect to such violation or with respect to any other violations.

(e) Without limiting any other remedies available to the Declarant or to the Architectural/Technical Committee, within six (6) months after Draper has issued a certificate of occupancy with respect to a Dwelling construction on a Lot within the Subdivision, the Declarant and/or the Architectural/Technical Committee shall be entitled to require the Owner of such Lot to correct at such Owner's sole expense, all variances in the completed Dwelling from the final plans of such Dwelling which were previously approved by the Architectural/Technical Committee pursuant to Article IV of this Declaration. In any legal action brought by the Architectural/Technical Committee to require compliance by the Owner of a Lot with the plans for the Improvements which were approved by the Architectural/Technical Committee, the Architectural/Technical Committee shall be entitled to recover from the Owner of such Lot all reasonable costs of enforcement, including attorneys' fees and costs of litigation.

9.4 Severability. Each of the covenants, conditions, restrictions and provisions contained in this Declaration shall be independent of the others, and in the event that any covenant, condition, restriction or provision of this Declaration is found to be invalid, unenforceable or illegal by a court of competent jurisdiction, the remaining covenants, conditions, restrictions and provisions of this Declaration shall remain in full force and effect.

9.5 Limited Liability. Neither the Declarant, or the Architectural/Technical Committee or its individual members, shall have personal liability to any Owner for actions or inactions taken pursuant to the terms of this Declaration, provided that any such actions or inactions are the result of the good faith exercise of their judgment or authority under this Declaration and without malice.

9.6 Term of Declaration, Renewal. This Declaration shall expire fifty years from the date it is first recorded with the Recorder of Salt Lake County, Utah, provided however that in the last year prior to expiration, the Owners of seventy-five percent (75%) of the Lots may, by written notice which is recorded with the Recorder of Salt Lake County, Utah, agree to extend the term of this Declaration for a period of an additional twenty years, and at the end of each additional period of twenty years thereafter, the Owners of seventy-five percent (75%) of the Lots may, by written notice which is recorded with the Recorder of Salt County, Utah, agree to extend the term of this Declaration for a period of twenty additional years.

9.7 Amendment, Mortgagee Not Bound. At any time while this Declaration is in effect, the Owners of seventy-five percent (75%) of the Lots subject to this Declaration (calculated at the rate of one (1) vote per Lot) may amend the provisions of this Declaration, provided that if the Declarant owns or controls an interest in all or a portion of the Additional Land at the time of the proposed amendment, the consent of the Declarant will be required. Any such consent shall be in the exclusive judgment of the Declarant. Any amendment must be in writing and must be properly recorded in the office of the Recorder of Salt Lake County, Utah.

No amendment will be binding upon the holder of any mortgage or trust deed on any Lot which mortgage or trust deed is of record at the time of the amendment, unless the mortgage or trust deed holder joins in the amendment. This Declaration may not be repealed by amendment.

9.8 Constructive Notice. Every person who owns, occupies, or acquires any right, title or interest in any Lot in the Subdivision is conclusively deemed to have notice of this Declaration and its contents, and to have consented to the application and enforcement of each of the provisions of this Declaration against such Owner's Lot, whether or not there is any reference to this Declaration in the instrument by which such Owner acquires an interest in any Lot.

9.9 Reservation of Easements. Easements affecting the Lots within the Subdivision are reserved as shown on the Plat for utility installation and maintenance, drainage and other purposes as designated on the Plat.

9.10 No Further Subdivision. Following the recordation of this Declaration, none of the Lots within the Subdivision may be further subdivided, even if the Owner of such Lot would otherwise be able to obtain the consent and approval of Draper for any such subdivision.

9.11 Notices. All notices under this Declaration are deemed effective 72 hours after mailing, whether delivery is proved or not, provided that any mailed notice must have postage pre-paid and be sent to the last known address of the party to receive notice. Notices delivered by hand are effective upon delivery.

9.12 Liberal Interpretation. The provisions of this Declaration shall be interpreted liberally to further the goal of creating a uniform plan for the development of the Subdivision. Section headings are inserted for convenience only and shall not be considered in the interpretation of the provisions. The singular shall include the plural, and the plural shall include the singular. Any reference to gender is intended to include masculine, feminine and neuter as well.

9.13 No Public Right or Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Subdivision to the public or for any public use, except as specifically shown on the Plat.

9.14 Deviation From Declaration. Notwithstanding any other provision in this Declaration to the contrary, the Declarant and the Architectural/Technical Committee shall have the right to deviate from the building standards set forth in this Declaration to the extent the Declarant or the Architectural/Technical Committee may reasonably determine to be necessary or in the best interest of the Subdivision with respect to specific Lots, based on such matters as space limitations, Lot configuration or other such reasonable and practical considerations, including without limitation market conditions.

9.15 Declarant's Sales Program. Notwithstanding anything to the contrary contained in this Declaration, for so long as Declarant continues to own a Lot in the Subdivision, the following provisions shall be deemed to be in full force and effect. No Owner or occupant of any Lot shall interfere or attempt to interfere with the completion of any Improvements on any Lot owned by Declarant or with the marketing, promotion and/or sale of any Lots owned by Declarant. Declarant shall have the right to maintain one (1) or more sales offices and one (1) or



more model Dwellings within the Subdivision at any one time. Such offices and/or models may be one or more of the Dwellings owned by Declarant, one or more separate structures or facilities placed on the Property for the purpose of aiding Declarant's sales efforts, or any combination of the foregoing. Declarant shall have the right to maintain a reasonable number of promotional advertising and/or directional signs, banners or similar devices at any place or places within the Subdivision that Declarant may elect. Declarant shall have the right from time to time to locate or relocate any of its sales offices, models, signs, banners, or similar devices. Declarant shall have the right to remove from the Subdivision, any signs, banners or similar devices or any separate structure or facility that may have been placed within the Subdivision for the purpose of aiding Declarant's sales efforts. All of the rights of Declarant under this Declaration may be assigned or transferred either by operation of law or through a voluntary conveyance, transfer or assignment.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date first above written.

ELK RIDGE DEVELOPMENT, INC.,  
a Utah corporation

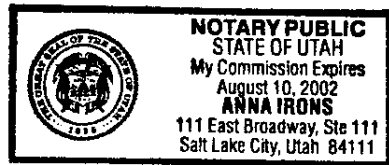
By: *[Signature]*  
Bob Kelez  
Title: President

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

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of December, 2001, by Bob Kelez in his capacity as President of Elk Ridge Development, Inc., a Utah corporation.

*[Signature]*  
NOTARY PUBLIC  
Residing at: \_\_\_\_\_

My Commission Expires:  
\_\_\_\_\_



BK8539PG7378

**EXHIBIT "A"**  
**TO**  
**DECLARATION OF COVENANTS,**  
**CONDITIONS AND RESTRICTIONS**  
**FOR SOMERSET RIDGE, PHASE I, LOTS 1 THROUGH 62**

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**Legal Description of the Property**

That certain real property located in Salt Lake County, State of Utah, described as follows:

All of Lots 1 through 62, inclusive of Somerset Ridge, Phase I according to the official plat thereof on file and of record in the Office of the Recorder of Salt Lake County, Utah, which official plat was recorded on June 11, 2001 as Entry Number 7918522 in Book 2001P at Page 145.

**EXHIBIT "B"**  
**TO**  
**DECLARATION OF COVENANTS,**  
**CONDITIONS AND RESTRICTIONS**  
**FOR SOMERSET RIDGE, PHASE I, LOTS 1 THROUGH 62**

**Minimum Number of Trees to be Planted in the Park Strip**  
**of Each Lot, as Required by Section 6.8 of the Declaration.**

**All Trees are to be planted with a minimum of 45 feet of spacing between them.**

Lot 1	4 Trees 2 on each street	Lot 32	2 Trees
Lot 2	2 Trees	Lot 33	2 Trees
Lot 3	2 Trees	Lot 34	2 Trees
Lot 4	2 Trees	Lot 35	2 Trees
Lot 5	2 Trees	Lot 36	2 Trees
Lot 6	2 Trees	Lot 37	2 Trees
Lot 7	2 Trees	Lot 38	4 Trees 2 on each street
Lot 8	4 Trees 2 on each street	Lot 39	4 Trees 2 on each street
Lot 9	4 Trees 2 on each street	Lot 40	2 Trees
Lot 10	2 Trees	Lot 41	2 Trees
Lot 11	2 Trees	Lot 42	2 Trees
Lot 12	2 Trees	Lot 43	2 Trees
Lot 13	2 Trees	Lot 44	5 Trees 2 on 1700 E., 3 on April Ann Court
Lot 14	4 Trees 2 on each street	Lot 45	2 Trees
Lot 15	2 Trees	Lot 46	2 Trees
Lot 16	4 Trees 2 on each street	Lot 47	2 Trees
Lot 17	2 Trees	Lot 48	4 Trees 2 on each street
Lot 18	3 Trees	Lot 49	2 Trees
Lot 19	2 Trees	Lot 50	2 Trees
Lot 20	1 Tree	Lot 51	2 Trees
Lot 21	2 Trees	Lot 52	2 Trees
Lot 22	2 Trees	Lot 53	3 Trees
Lot 23	2 Trees	Lot 54	5 Trees 2 on Somerset Ridge, 3 on Ellerbeck
Lot 24	2 Trees	Lot 55	3 Trees
Lot 25	2 Trees	Lot 56	2 Trees
Lot 26	2 Trees	Lot 57	2 Trees
Lot 27	2 Trees	Lot 58	2 Trees
Lot 28	4 Trees 2 on each street	Lot 59	2 Trees
Lot 29	4 Trees 2 on each street	Lot 60	2 Trees
Lot 30	2 Trees	Lot 61	4 Trees 2 on each street
Lot 31	2 Trees	Lot 62	2 Trees