

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
GRANT OF EASEMENTS

This Declaration of Covenants, Conditions and Restrictions and Grant of Easements (hereinafter referred to as the "Declaration"), is made and executed as of the 12th day of DEC. 2000, by and between Soderby, Ltd. (hereinafter referred to as "Declarant - Soderby, Ltd.).

03-005-048-04
03-005-040-01
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03-005-041-02

RECITALS:

A. Description of Trappers Loop Commercial Park. Declarant - (Duane D. Johnson General Partner, Soderby, Ltd.) is the owner of the Trappers Loop Commercial Park as herein after defined, which land is more particularly described in Exhibit "A" attached hereto.

B. Improvement of Trappers Loop Commercial Park. Declarant, or their successors or assigns, propose to improve each parcel of Land described above, in a joint development as a "Shopping Center" in two or more phases under a general plan or scheme of development and for the purpose Declarant intend to hereby create and establish certain easements, restrictions, and obligations with respect to the Trappers Loop Commercial Park.

C. Common Areas. Declarant will make and provide certain roadways, sidewalks, parking areas, mall, and utility improvements and facilities, including grading, surfacing, lighting, striping, planting, installation of sewer, water, electrical, and gas lines in, under, over, and upon the Trappers Loop Commercial Park and intend for such

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BRENDA NELSON, Recorder
Filed By BDN
For MOUNTAIN VIEW TITLE & ESCROW I
MORGAN COUNTY

purposes to set aside certain portions of the Trappers Loop Commercial Park (hereinafter referred to as the "Common Areas").

D. Easements and Right of Way. Declarants desire to establish and create for the benefit of each Building Area certain easements and right-of-ways for access over and upon the Common Areas.

E. Intent and Purpose. Declarants intend by recording this Declaration, together with the Exhibits attached hereto, to subject the Trappers Loop Commercial Park and all improvements situated or to be situated thereon to the provisions of this Declaration and to impose upon the Trappers Loop Commercial Park mutually beneficial restrictions for a general plan of improvement for the benefit of the Owners of all interests in the Trapper Loop Commercial Park.

NOW, THEREFORE, Declarant, as the Owner of the Trappers Loop Commercial Park for themselves and their legal representatives, successors, and assigns hereby declare as follow:

ARTICLE I

DEFINITIONS

1.01. Defined Terms. Unless the context clearly indicates otherwise, certain terms as used in this Declaration shall have the meanings set forth in this Article I.

1.02. "Trappers Loop Commercial Park" shall mean the parcel of land consisting of approximately 21 acres and more particularly described in Exhibit "A" which is attached hereto and by this reference incorporated hereto and by this reference incorporated herein.

1.03. "Shopping Center" shall mean all Parcels of land contained in the Trapper Loop Commercial Park and contains all Building Areas and Common Areas collectively. The Shopping Center shall consist of two or more phases.

1.04. "Building Areas" shall mean those areas designated and set forth as "Future Development Area" which shall be established as Building Areas pursuant to Article 3.03.

1.05. "Site Plan" shall mean the initial site plan attached here to as Exhibit "B" and by this reference incorporated herein, as many be amended from time to time by the parties as set for in this Declaration.

1.06. "Building" shall mean the structure or structures to be constructed within the Building Areas.

1.07. "Common Areas" shall mean those portions of the Shopping Center including common facilities thereon, which are not Building Areas.

1.08. "Owner" shall mean the record owner of the fee title to a Parcel.

1.09. "Parcel" shall mean each separate parcel of land contained in the Shopping Center held by any record Owner.

1.10. "Responsible Owner" shall be Soderby Ltd. until the park is fully developed after that it shall mean the Owners of a Parcel with a Building Area thereon which is at least 20,000 square feet.

1.11. "Floor Area" shall mean the area measured from exterior surface of exterior walls and from the center of common walls or interior demising partitions.

ARTICLE II

Common Plan. Declarants by this Declaration intend to establish a common plan for the development of Trappers Loop Commercial Park in order to insure the protection and improvement of the Trappers Loop Commercial Park and as hereinafter set forth, by this Declaration will establish certain easements, covenants and reservations upon and subject to which the Trappers Loop Commercial Park will be used, held, leased, sold or conveyed by Declarants which easements, covenants and reservations are intended for the benefit of the Trappers Loop Commercial Park and each Owner of any interest therein, whether present or future, and which shall inure and pass with the Trappers Loop Commercial Park and each and every interest therein. In the event and at such time as Declarant - Soderby, Ltd., or its successors and assigns, develops any part of all of the Trappers Loop Commercial Park, the common plan for the development of the Trappers Loop Commercial Park, as set forth herein, shall upon the written election of the Owner of the Trappers Loop Commercial Park to all Owners hereunder, be mutually binding on the Owner of the Trappers Loop Commercial Park. The Owner of the Trappers Loop Commercial Park hereby expressly agrees and consents that, upon the receipt of the election and the recording of the an amendment to this Declaration executed by the Owner of the Trappers Loop Commercial Park to include the Trappers Loop Commercial Park, they shall be subject to and bound by this Declaration with respect to its joint application to said Trappers Loop Commercial Park, as set forth herein.

ARTICLE III

LAND USE

3.01 Permitted and Prohibited Uses. Except as otherwise provided in this Declaration, the Commercial Property and any portion thereof shall be used, if at all, only for the construction, operation, and maintenance thereon of retail or wholesale mercantile businesses, including without limitation the so-called fast food restaurants, convenience stores, business and professional offices, financial institutions, and related facilities common to neighborhood-community type retail shopping centers, and for Common Areas relating to an necessary to the operation of the foregoing. Further the Shopping Center and any portion thereof shall not be used for warehousing except for area designated on Site Plan (other than the temporary storage of fixtures, equipment, and inventory by an occupant of the Shopping Center), industrial, manufacturing, or residential purposes, except for the storage and/or manufacture of such goods as are required as a necessary incident to the conduct of a particular retail mercantile business, business or professional office, financial institution or related facility situated in the commercial property. In no event shall any Building Area or portion thereof be used or operated for any use or purpose, and/or by any tenant or other occupant, which is not consistent and compatible with the intention of the parties, at all times during the term of this Agreement, to maintain and operated a first-class shopping center of a quality equal to that maintained and operated in other first-class shopping centers in the State of Utah.

3.02. No Interference with Common Area. No use of the Shopping Center shall interfere with the use of the Common Areas within the Shopping Center for the purposes for which they were intended as provided in this Agreement or impede the free flow of vehicular or pedestrian traffic thereon.

3.03. Conformity to Site Plan. Declarants, or their successors and assigns, shall develop the Shopping Center in conformance with and in the manner shown in the Site Plan attached hereto as Exhibit "B". Prior to development of the Commercial Property and/or the Future Development Area, the exact locations of and sizes of the Building Areas and the Common Areas within the Commercial Property and/or the Future Development Area shall be established pursuant to the terms of Article 4.05. The plan for development of the Building Areas and the Common Areas and the Common Areas within the Commercial Property and/or the Future Development Area shall be subject to the approval of the Responsible Owners, which approval shall not be unreasonably withheld. The Site Plan shall be amended to reflect the development of the Building Areas and Common Areas of the Commercial Property and/or the Future Development Area as herein established and approved. The Plan for development of the Commercial Property and/or the Future Development Area and corresponding amendments to the Site Plan shall include the relocation of curb cuts and entrances to and from that Parcel and Area in the existing development as shown on the Site Plan required to reflect the development of the Commercial Property and/or the Future Development Area as provided herein, provided that such relocation of curb cuts and entrances do not materially or adversely impact upon or affect traffic flow, visibility, parking upon access with respect to the Shopping Center as it then exists. Except as expressly set forth herein,

any changes to the Exhibit "B" Site Plan may only be made with the prior written consent of the Responsible Owners, which consent shall not be unreasonably withheld if such changes do not materially and adversely impact upon or affect traffic flow, visibility, parking upon and access with respect to the Shopping Center.

ARTICLE IV

RESTRICTIONS OF USE OF BUILDING AREAS

4.01. Building Design and Construction. Each Building or other improvement (including signs) to be constructed, altered, remodeled, repaired, or reconstructed in the Trappers Loop Commercial Park shall be architecturally harmonious and compatible with the other Buildings and improvements from time-to-time located in the Trappers Loop Commercial Park and shall be designed to a Western Theme. All construction of Buildings and modifications to the exterior of existing Buildings constructed within the Trappers Loop Commercial Park shall be subject to the prior written approval of the Responsible Owners, which approvals shall not be unreasonably withheld. No modifications to the elevation and exterior appearances, including changes of materials and colors, for Building in the Trappers Loop Commercial Park shall take place prior to such approval. All construction, alteration, and repair work relative to the Trappers Loop Commercial Park shall be accomplished in an expeditious manner, in compliance with all laws, rules, regulations, orders, permits, approvals, and licenses of governmental authorities having jurisdiction. The Owner undertaking such work shall take all necessary measures to minimize any disruption or inconvenience caused by such work. Such work shall be accomplished in such a manner as to minimize any damage or

adverse effect which might be caused by such work to any other party or to the Parcel on which the work is being done or any other Parcel in the Trappers Loop Commercial Park. The Owner undertaking such work shall repair at its own cost and expense any and all damage caused by such work and shall restore the affected portion of the Parcel upon which such work is performed to a condition which is equal or better than the condition which existed prior to the beginning of such work. In addition, the Owner undertaking such work shall promptly pay all costs and expenses associated therewith and shall indemnify and hold all Owners harmless from all damages, losses or claims, including reasonable attorneys fees, attributable to the performance of such work. Except in cases of emergency or the prior consent of the Responsible Owners, all such work shall be undertaken only after giving said Responsible Owners thirty (30) days' prior written notice of the work to be undertaken, the scope and nature of the work, the duration of the work, and the area in which the work is to be performed.

4.02. Building Height. In no event shall any Building on the Trappers Loop Commercial Park be of a height in excess of twenty eight feet (28') unless written permission is obtained from Declarant. For the purposes of this Section 4.02, height shall be measured from finished grade of floor to the highest point of the Building.

4.03. Automatic Sprinklers. Every Building shall be either equipped with automatic sprinklers systems which meet all the standards of the Insurance Services Office (or other similar local organization having jurisdiction) or shall be constructed in such a manner as not to adversely affect the fire rating of any Building built upon any other Building Area. The purpose of this paragraph is to allow Buildings built on each Building Area to be fire-rated as separate and distinct units without deficiency charge.

4.04. Location of Buildings. Subject to the restrictions set forth in this Agreement, all Buildings shall be placed or constructed upon the respective Parcel in the Trappers Loop Commercial only within the Building Areas as herein defined. No Buildings shall be placed or constructed in the Trappers Loop Commercial Park within the Common Areas, except pylon signs, directional signs, bumper guards or curbs, landscape planters, lighting standards, and other landscaping or other improvements as may be required under applicable controls and regulations of the County of Morgan, Utah. In addition, subject to the provisions of Section 4.01, any Owner may construct, install, repair, remove, replace, and maintain sidewalks and walkways, and canopies and marquees (with signs which may be affixed thereto) which may encroach a reasonable distance (not to exceed fifteen feet (15') over or upon, as the case may be, the sidewalks and walkways contiguous to the Building Area. The Building Area of each Parcel may, but need not be developed to the full gross square footage of Floor Area as set forth on Exhibit "B" as amended; provided, however, except as provided in the preceding sentence, no Building located on any Building Area may be extended beyond the boundaries of the Building Area as shown on Exhibit "B" as amended, nor may a Building be enlarged after it is initially constructed in such a manner that will create more gross Floor Area or reduce parking area, such as additions extending over present Common Areas, or basements, without the prior written consent of all the Responsible Owners, which consent shall not be unreasonably withheld if such additions do not materially and adversely impact upon or affect traffic flow, visibility, parking upon and access with respect to the Trappers Loop Commercial Park and the respective Parcels.

4.05. Drive-up and Drive-Through Facilities. No restaurant, bank or other facility featuring vehicular drive-up or drive-through customer service shall be located in the Trappers Loop Commercial Park, unless Declarant has first given their written consent, which shall not be unreasonably withheld, to the location, parking and drive lanes of such facility.

4.06. Maintenance of Buildings. The Owner of each Parcel in the Trappers Loop Commercial Park shall maintain, or cause to be maintained, in a safe, clean, and tenable condition and in good order and repair, consistent in manner and appearance with a first-class shopping center, all building (including, but not limited to, all loading docks, truck facilities, and compactor areas) located on its respective Parcel.

ARTICLE V

COMMON AREAS

5.01. Use of Common Areas. The Common Areas shall be used for the following purposes only:

- (a) The parking of passenger vehicles and pedestrian and vehicular traffic.
- (b) The installation, maintenance, and operation of underground common and/or public utilities services serving any of the Building Areas, together with and including vaults, manholes, meters, pipelines, valves, hydrants, sprinkler controls, conduits, and related facilities on site, storm drainage piping, and retention and detention ponds, and related facilities, and sewage facilities, all of which (except hydrants) shall, to the extent reasonably possible, be even with or below the surface of the ground.

(c) The location of mail boxes, public telephones, newspaper racks, and benches for the comfort and convenience of customers, visitors, invitees, licensees, and patrons of mercantile, restaurants, business or professional establishments and occupants located or to be located upon any of the Building Areas or any portion thereof, as the Declarants and their legal representatives, successors, assigns, or grantees may from time-to-time deem appropriate.

(d) The construction, maintenance, repair, replacement, rearrangement, and reconstruction of parking sites or stalls, streets, sidewalks, ramps, driveways, lanes, curbs, gutters, traffic control areas, traffic islands, and traffic parking lighting facilities.

(e) The construction, maintenance, repair, replacement, and reconstruction of pylon signs (with appropriate underground electrical connections), if otherwise permitted.

(f) The construction, maintenance, repair, replacement, and reconstruction of any mall or landscaped areas including planters, planting boxes, edgers, decorative walls, and sprinklers and valves.

(g) The ingress and egress of customers, visitors, invitees, licensees, and patrons (and their Vehicles) of mercantile, business, or professional establishments located on the Building Areas and to and from any public streets adjacent thereto, and the ingress and egress of delivery and service trucks and vehicles to and from the Building Areas or any portion thereof and to and from any public streets adjacent thereto, for delivery of goods, wares, merchandise and the rendition of services to Owners and their respective heirs, successors, grantees, assigns, and lessees.

(h) The ingress and egress of any of the persons designated in Paragraph (g) above and their vehicles, to and from any portion of any Building Area and to and from the public streets adjacent thereto.

(i) Subject to adequate provision for the uses set forth in the other paragraphs in this Section 5.01, the rearrangement and reconstruction of truck loading and unloading areas, including ramps, docks and similar facilities and trash, refuse, and garbage container storage areas.

(j) The temporary parking of trucks, tractors, trailers, and other delivery vehicles used in conjunction with the exercise of any of the activities described in Paragraph (g) above.

(k) Subject to the foregoing limitation and restrictions, during the course of construction of any Building which may hereafter be constructed upon any of the Building Areas, those portions of the Common Areas immediately adjacent thereto may be used by the Owner of the Building Area, or, with such Owner's written consent, by the tenant thereof for the temporary storage of construction materials and equipment used and to be used in connection with the construction of the Building, provided that such use thereof does not unreasonably interfere with the normal use of such Common Areas; provided, however, that no such temporary storage shall be allowed on the Trappers Loop Commercial Park without the prior written consent.

(l) The conducting of sidewalk or outdoor sales or entertainment by the Owner or Lessee thereof of the Parcel containing said Common Area provided that said sales are conducted within said Parcel.

5.02. Prohibited Use of Common Areas. The Common Areas shall not at any time be used for the parking of trucks (other than passenger trucks) or the loading or unloading thereof, except for the parking, loading or unloading of trucks during and in connection with construction of Buildings upon an of the Building Areas and the servicing and supplying of Building Area; provided, however, that if at all possible such service and supplies shall be provided to the Building Areas from the Common Area at the rear of the Building Areas, the delivery or removal of trade fixtures, including signs, or the construction, repair, or maintenance of parking areas and improvements and facilities herein permitted, upon the condition, however, that any such use shall be confined to the portion of the Common Areas which is reasonably necessary in connection with the matters herein specified and shall be diligently and promptly completed.

5.03. Parking and Associated Areas. All driving aisles, parking aisles, driveways, and parking areas contained within the Common Areas shall be properly graded, leveled, and paved with concrete or asphalt and shall also be properly marked with painted lines for the orderly flow of traffic and the parking of motor vehicles. All parking areas within the Common Areas shall be provided with appropriate access to driving aisles and driveways of adequate width.

5.04. Parking Ratios. The parking ratio for each individual Parcel shall be no less than three and on half 3.5 spaces per 1000 ft of Floor Space. At no time shall Declarants, their successors or assigns, use any parking spaces from any Parcel except for their own to calculate the required parking ratio for their Parcel.

5.05 Lighting. All parking areas within the Common Areas shall be illuminated during business hours occurring during darkness and for a reasonable period prior and subsequent thereto.

5.06. No Changes in Traffic Patterns. Following the completion of the construction of the Buildings or similar structures on the Building Areas the sizes and arrangements of those portions of the Common Areas then used for parking areas and the traffic circulation and flow patterns on the Common Areas shall not be changed or altered without the prior written consent of the Responsible Owners, which consent shall not be unreasonably withheld if such changes or alterations do not materially or adversely impact upon or affect traffic flow, visibility, parking upon or access with respect to the Shopping Center and their respective Parcel.

5.07 Signs. No other signs shall be erected in the Shopping Center unless all Responsible Owners have first given written consent, which consent shall not be unreasonably withheld. (In no event shall any agreed upon sign exceed twenty (20') feet in height and fifteen (15') feet in width).

5.08 Landscaping. Each building area must present a landscape plan and which must be approved in writing by Declarant.

ARTICLE VI

EASEMENTS

6.01 Grant and Declaration of Reciprocal Easements. Declarants hereby grant to each and every Owner and their respective successors, assigns, mortgagees, lessees, sublessees, employees, agents, customers, licensees, and invitees, and declare for the benefit of each of the respective Parcels within the Trappers Loop Commercial Park permanent, mutual, reciprocal, and non-exclusive easement and rights to use the Common Areas for the purposes for which they are intended, as provided in this Agreement, including, but not limited to, ingress, egress, access, and parking for vehicular or pedestrian traffic, upon or across the parking areas, entrances, exits, driveways, walks, or service drives located within the Common Areas and the use of storm drainage and retention facilities, landscaping, public rest rooms, if any, and other public facilities, directional signs and other areas intended for common use.

6.02. Separate Utility Lines. Declarants hereby grant to each and every Owner, respectively, nonexclusive easements in, to, over, under, and across the Common Areas of the respective Parcels for the installation, operation, flow, and passage, use, maintenance, repair, relocation and removal of sanitary sewers, storm drains, retention and detention ponds, water and gas mains, electrical power lines, telephones lines and other utility lines, all of such sewers, drains, mains, and lines to be underground, serving the respective Parcels of each of the Owners. However, the easement for separate utility lines provided herein shall be limited to such portion of the Common Areas as necessary

to provide reasonable utility services to each Parcel together with such area on both sides of the utility line as is the ordinary custom and practice in the industry to provide for the installation, operation, and maintenance of the utility. The easements shall be defined and placed of record in conjunction with installation. All separate utility easements shall, to the extent possible, follow the most direct route to tie into common transmission lines except where such direct route would unnecessarily disrupt or damage Buildings and/or structure located upon the Common Areas or Building Areas.

6.03 Common Utility Lines. Declarants hereby grant to each and every Owner, respectively, non exclusive easements in, to, over, under, and across the Common Areas of the respective Parcels fro the installation, operation, flow and passage, use, maintenance, repair, relocation and removal of sanitary sewers, storm drains, retention and detention ponds, water and gas mains, electrical power lines, cable television, telephone lines and other utility lines, all of such sewers, drains, mains, and lines to be underground, for the service of the Common Areas and for the use in common with other parties. Declarants hereby further reserve to each and every Owner the right to grant such easements in, to, over, under, and across its respective Parcels, for the purposes herein above enumerated, to such other parties as may from time to time be entitled thereto. Easements identifying the exact location and use of such common utility lines shall be placed of record in conjunction with the installation of the utility.

6.04. Location of Utility Easements. The location of all utility easements of the character described in this Section shall be subject to the prior written approval of the Owner in, to, over, and under whose Parcel the same is to be located. If requested by any utility company or any Owner upon completion of construction of such utility facilities

the Owners of Parcels affected thereby shall join in the execution of an agreement, in recordable form, appropriately identifying the type and location of such respective utility facility

6.05. Installation, Maintenance and Repair. The grantee of any of the utility easements referred to in this Section shall be responsible as between the grantor and the grantee thereof for the installation, maintenance, and repair of all sanitary sewers, storm drains, pipes and conduits, mains and lines and related equipment installed pursuant to such grant. Any such maintenance and repair shall be performed only after two (2) weeks notice to the grantor of the grantee's intention to do such work, except in the case of emergency, and any such work shall be done without cost or expense to the grantor, and in such manner as to cause as little disturbance in the use of the Common Area, Building Area, or Parcel as may be practicable under the circumstances.

6.06. Relocation. At any time the grantor of any of the utility easements granted pursuant to this Section shall have the right to relocate on the land of the grantor any such sewers, drains, mains, and lines and related equipment then located on the land of the grantor, provided that such relocation shall be performed only after thirty (30) days notice of the grantor's intention to so relocate shall be given to the grantee, and such relocation: (a) shall not interfere with or diminish the utility services to the grantee; (b) shall not reduce or unreasonably impair the usefulness or function of such utility; (c) shall be performed without cost or expense to grantee; and (d) shall be made in accordance with and subject to applicable municipal ordinances, building codes, regulatory review, etc. Notwithstanding such relocations, maintenance shall be the obligation of the grantee;

provided that if there shall be any materials increase in such cost, the grantor shall bear such excess.

6.07. Use of Easements. The easements and right-of-ways, established by this Section, shall be for the benefit of and restricted solely to the use of the Owners and their respective successors and assigns, the lessees and sub-lessees of the Owners, mortgagees under mortgages covering any of the Trappers Loop Commercial Park, beneficiaries and trustees under deeds of trust covering any of the Trappers Loop Commercial Park and to their agents, customers, employees, licensees, and business invitees and the same is not intended and shall not be construed as creating any rights in or for the benefit of the general public provided that the grant herein is subject to the provisions of Section 6.08 below.

6.08 Right of Close Common Areas. Each Declarant for itself and the then Owners of any portion of the Common Areas reserves the right to close temporarily all or any portion of the Common Areas within a Parcel held by said Owner to such extent as in the opinion of either the Declarant or the then Owners of the Common Areas is legally necessary and sufficient to prevent the dedication thereof or any accrual of any rights therein in any person other than as created hereby or in the public generally.

6.09 No Further Easements. No Owner of any real property interest in the Trapper Loop Commercial Park shall grant any easement, right-of-way, or right of use with respect to any of the Common Areas, except as provided herein. Nor shall any such person grant any easement, right-of-way, or right of use with respect to any Building Area, the fee ownership of which is not vested in said party.

ARTICLE VII

CERTAIN RIGHTS AND OBLIGATIONS OF THE DECLARANTS AND OWNERS

7.01. The Common Areas. Declarant – Soderby, Ltd., its agreement subject to the rights and duties of the Owners as set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon and shall keep the same in good, clean, attractive, safe, and sanitary condition, order, and repair. The Declarant – Soderby, Ltd. shall be responsible for the maintenance and repair of the Common Areas, including, without limitation, painting thereof, snow and ice removal, repair and replacement of surfacing and maintenance of landscaping, walkways, and driveways. In particular, the Declarant – Soderby, Ltd. shall be responsible of the maintenance of the roads associated improvements located or to be located in whole or in part upon the Common Areas. All contracts of Declarant – Soderby, Ltd. necessary to carry out its duties of management hereunder shall be subject to the prior review and approval by Responsible Owners on an annual basis. The specification of duties of the Declarant – Soderby, Ltd. with respect to particular Common Areas shall not be construed to limit its duties with respect to other Common Areas, as set forth in the first sentence of this section.

7.02. Manager The Declarant – Soderby, Ltd. may by written contract or agreement delegate in whole or in part to a professional Manager or lessee such of the Declarant – Soderby, Ltd. duties, responsibilities, functions, and powers hereunder as are properly delegable.

7.03. Miscellaneous Goods and Services. The Declarant – Soderby, Ltd. may obtain and pay for the services of such personnel as the Declarant – Soderby, Ltd. shall determine to be necessary or desirable for the proper operation of the Common Areas, whether such personnel are furnished or employed directly by the Declarant – Soderby, Ltd. or by any person or entity with whom or which it contracts. The Declarant – Soderby, Ltd. may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Common Areas, the enforcement of this Declaration, or any other matter. In addition to the foregoing the Declarant – Soderby, Ltd. may acquire and pay for water, sewer, garbage collection, electrical, gas, and other necessary or desirable utility services for the Common Areas, and insurance, bonds, and other goods and services reasonably required for the maintenance and repair of the Common Areas.

7.04. Reimbursement if Common Area Expenses. Within thirty (30) days after receipt of a statement therefor, each Owner agrees to reimburse Declarant – Soderby, Ltd. for its Pro Rata Share of the direct costs, including management, for operation, maintenance, repair, and improvements of the Common Areas in the Shopping Center and including a maximum service charge of ten percent (10%) of said expenses to cover administration/management fees and overhead costs, as set forth in this section. The term “Pro Rata Share” as used in this Section shall be the fractional share determined by the fraction, the numerator of which is the total square footage of the Floor Area of the Buildings (constructed or to be constructed) on the Owner’s Parcel as shown on the Site Plan attached hereto as Exhibit “B”, and the denominator is the total square footage of all Buildings (constructed or to be constructed) in the Trappers Loop Commercial Park as

shown on the Site Plan, attached hereto as Exhibit "B"; provided, however, that the formula for the Pro Rata Share of expenses for lighting standards, and landscaping may be revised at Declarant – Soderby, Ltd. discretion to take into account a Building or Buildings longer use of said utility as a result of its longer business hours, or the Owner's desire to upgrade landscaping and maintenance upon their respective parcels. All sums assessed to any Parcel or Owner pursuant to this Declaration, together with interest, collection costs, and attorneys' fees provided herein, shall be secured by a consensual lien upon such Parcel in favor of the Declarant – Soderby, Ltd., its successors and assigns. The purchaser of each parcel, or portion thereof, by his acceptance of a Deed, covenants and agrees to pay Common Areas Assessments imposed hereunder and consents to the imposition of a lien upon its Parcel in the even of non-payment. Declarant – Soderby, Ltd., its successors or assigns, may record a written notice of lien setting forth the amount of assessments, the due date, and the amount remaining to be paid upon each Parcel or portion thereof. The declarant – Soderby, Ltd., its successors or assigns, may collect upon a lien in contract or by judicial foreclosure as provided for under the laws of the State of Utah. In the event of foreclosure or any other method other than foreclosure, the Owner shall be required to pay the costs and expenses of such proceedings, including reasonable attorneys' fees.

7.05. Common Area Liability Insurance. Declarant – Soderby, Ltd. shall, at all times, maintain, or cause to be maintained, general public liability insurance against claims for personal injury or death and property damage occasioned by accident occurring upon, in or on the Common Areas such insurance in each case to afford protection to the limits as determined adequate by the Declarant – Soderby, Ltd. and

consented by the Owners, which consent shall not be unreasonably withheld. Declarant – Soderby, Ltd., with the consent of the Owners, which consent shall not be unreasonably withheld, may from time to time increase or decrease the amount of insurance maintained hereunder to reflect any actual and substantial decrease in the value of the dollar or increase in risk occurring after the date of this Agreement. Each Owner shall reimburse Declarant – Soderby, Ltd. for its Pro Rata Share of the premium for such insurance within thirty (30) days after receipt of a statement of the premium due therefor.

7.06. Taxes. Each Owner shall pay, or cause to be paid, unless otherwise required by the terms of the lease, directly to the tax assessor, prior to delinquency, all real property taxes and other special taxes and assessments which may be levied or assessed against the Parcel owned by said Owner, including the portion of the Common Area within such Owner's Parcel, and including any assessment attributable to appurtenant interests created by this Agreement, subject to the right of any party to contest such taxes and assessments in the manner provided by law.

7.07. Rules and Regulations. Declarant – Soderby Ltd., with the consent of the Responsible Owners, may make reasonable rules and regulations governing the use of the Common Areas, which rules and regulations shall be consistent with the rights and duties established in this Declaration and with the terms and conditions of the lease. The Declarant – Soderby, Ltd. may take judicial action against any Owner to enforce compliance with such rules and regulations or other obligations of Owners arising hereunder, or to obtain damages for noncompliance therewith, as permitted by law. In the event of such judicial action, the Declarant – Soderby, Ltd. shall be entitled to recover its costs, including reasonable attorneys' fees, from the offending Owner.

7.08 Implied Rights. The Declarant – Soderby, Ltd. and the Owners may exercise any right or privilege given to them expressly by this Declaration or by law, and every other right or privilege reasonably implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

ARTICLE VIII

CONDEMNATION

8.01. Condemnation. If at any time or times all or any part of the Trappers Loop Commercial Park shall be taken or condemned by any public authority under power of eminent domain, the provisions of this article shall apply. A voluntary sale or conveyance of all or any part of the Trappers Loop Commercial Park in lieu of condemnation but under threat of condemnation, shall be deemed to be taking by eminent domain.

8.02. Proceeds. All compensation, damages, and other proceeds from any such taking by power of eminent domain (hereinafter the "Condemnation Award") attributable to the value of any land within the Common Areas shall be payable only to the Owner thereof and no claim thereon shall be made by the other Owners thereof and no claim thereon shall be made by the other Owners; provided, however, that all other Owners may file collateral claims with the condemning authority over and above the value of the land and improvements located within the Common Areas so taken to the extent of any damage suffered by their respective Building Areas resulting from severance of the

appurtenant portions of the Common Areas so taken. The Owner of the portions of the Common Areas so condemned shall promptly repair and restore the remaining portion of the Common Areas so owned by such Owner as near as practicable to the condition of the same immediately prior to the condemnation and without contribution from any other Owner; provided, however, that the obligation to repair or reconstruct shall be limited such that the cost thereof shall not exceed the amount of the Condemnation Award payable to the Owner of the Common Areas so condemned less said Owner's costs, including, but not limited to, attorneys' fees and court costs arising out of the condemnation proceedings.

8.03 In the event of destruction of damage from fire or any other casualty to any building or improvements erected on the Trappers Loop Commercial Park, the Owner having its buildings or improvements destroyed or damaged, at its sole cost and expense, shall within six (6) months of the date of such fire or casualty have: (i) started to rebuild or repair the same; or (ii) removed debris and leveled the same. If any Owner elects to rebuild or repair such building or improvement, the same shall be repaired and rebuilt to at least substantially the same size and as good as condition as such was in immediately preceding such fire or casualty with one (1) year of the date of such fire or casualty. If Owner elects to remove the debris and level the buildings or improvements destroyed or damaged, the same shall be leveled so that the affected area conforms substantially to the Common Areas surrounding it. The Owner shall retain the right to rebuild such building or improvement at a later date subject to the terms of this Declaration. Anything in this subparagraph notwithstanding, if such event shall destroy 5% or less of the ground floor areas of such building or structure, then the Owner of such

building or structure shall have no option to remove debris and level the building or improvement and shall rebuild or repair the same in accordance with this subparagraph.

ARTICLE IX

APPROVALS

Upon receipt of an Owner of a request for approval, provided for or required by this Agreement, such Owner shall, within thirty (30) days after receipt of such request for approval, notify in writing the party making such request of any objections thereto (such objections to be specifically stated) and such party may within fifteen (15) days thereafter resubmit its request for approval rectifying any such objections to the appropriate Owner. The Owner shall then have an additional fifteen (15) days after receipt of said revisions to approve or disapprove same. Failure to give any written notice of disapproval within the period provided for above shall constitute approval thereof by such Owner.

ARTICLE X

ENFORCEMENT

10.01. The right to enforce the terms, covenants, and easements contained herein shall belong only to the Owners, lessees of the Owners, if any, and to mortgagees under mortgages covering any of the Trappers Loop Commercial Park and beneficiaries and trustees under deeds of trust covering any of the Trappers Loop Commercial Park of the Owners, provided that the lease or memorandum of lease in favor of such lessee,

mortgage in favor of such mortgagee, or deed of trust in favor of such beneficiary and trustee is recorded in the office of the Recorder of Morgan County, State of Utah.

10.02. In the event of any violation or threatened violation of any of the terms, restrictions, or covenants contained herein, any person entitled to enforce this Declaration will have, in addition to the right to collect damages, the right to enjoin such violation or threatened violation in a court of competent jurisdiction.

10.03. If performance of any act or obligation of any party is prevented or delayed by an act of God, war, labor disputes, or other cause or causes beyond the reasonable control of such party, the time for the performance of the act or obligation shall be extended for the period that such act or performance is actually delayed or prevented by any such cause.

10.04. In the event that any suit is brought for the enforcement of any provision of this Declaration or as the result of any alleged breach thereof or for a declaration of rights and duties hereunder, the successful party or parties to such suit shall be entitled to collect reasonable attorneys' fees from the losing party or parties and any judgement or decree rendered shall include an award thereof.

10.05. It is expressly agreed that no breach or violation of this Declaration will terminate this Declaration, but limitation will not affect, in any manner, any other rights or remedies for any breach of this Declaration.

10.06. A breach or violation of any of the terms, covenants, or restrictions of this Declaration will not defeat or render invalid the lien of any first mortgage or first deed of trust, made in good faith and for value, or any mortgages securing construction financing on any Parcel, but such term, covenants, or restriction will be binding on and be

effective against anyone whose title to any portion of the Trappers Loop Commercial Park is acquired by foreclosure, trustee's sale, or otherwise. The parties hereto covenant and agree that this Declaration is intended to and shall take priority over any and all loans, mortgages, trust deeds and other encumbrances placed against the Trappers Loop Commercial Park.

10.07. The specified remedies to which any person entitled to enforce this Declaration may resort under the terms of this Declaration are cumulative and are not intended to be exclusive of any other remedies or means of redress to which any person entitled to enforce this Declaration may be lawfully entitled in case of any breach or threatened breach of any provision of this Declaration. Failure to insist in any one or more cases upon this strict performance of any of the covenants of this Declaration or to exercise any remedy herein contained shall not be construed as a waiver or a relinquishment for the future of such covenant or remedy.

ARTICLE XI

DURATION

This Declaration and each easement, covenant, condition, and restriction hereby created shall continue for a period of fifty (50) years from the date hereof, unless terminated, modified, or amended by an instrument executed as herein set forth and duly recorded in the office of the Recorder of Morgan County, State of Utah.

ARTICLE XII

AMENDMENTS OF MODIFICATIONS

12.01 Consent to Modifications. This Declaration and any provision, covenant, or easement contained herein may be terminated, extended, modified, or amended with the written consent of all of the then Responsible Owners, each mortgagee under mortgages covering any of the Trappers Loop Commercial Park owned by a Responsible Owner and each beneficiary and trustee covering any of the Trappers Loop Commercial Park owned by a Responsible Owner; provided, however, that no termination, extension, modification or amendment of this Declaration shall be effective unless a written instrument setting forth the terms thereof has been executed as herein provided, acknowledged, and recorded in the office of the Recorder of Morgan County, State of Utah.

12.02. No Consent or Other Person. Anything in this Article XII to the contrary notwithstanding, no lessee or licensee or any other person having any interest in the Trappers Loop Commercial Park other than those persons specifically designed in Section 12.01 above need consent to any termination, extension, modification, or amendment of this Declaration or any part hereof.

ARTICLE XIII

MISCELLANEOUS

13.01 Not a Public Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of any portion of the Trappers Loop Commercial Park to the general public or for the general public or for any public purposes whatsoever, it being the intention that this Declaration will be strictly limited to and for the purpose expressed herein.

13.02 Severability. If any clause, sentence, or other portion of the terms, covenants, or restrictions of this Declaration becomes illegal, null, or void for any reason, or is held by any Court of competent jurisdiction to be so, the remaining portions shall remain in full force and effect.

13.03 Dominant and Servient Estates. Each and all of the easements and rights granted or created herein are appurtenances to the applicable portions of the Trappers Loop Commercial Park and none of such easements and rights may be transferred, assigned, or encumbered except as an appurtenance to such portions. For the purposes of such easements and rights, the property benefited shall constitute the dominant estate, and the particular areas of the Trappers Loop Commercial Park which respectively are burdened by such easements and rights shall constitute the servient estate.

13.04. Covenants Run with Land. Each and all of the covenants, restrictions, and provisions contained in this Declaration (Whether affirmative or negative in nature); (a) shall be deemed to be covenants which run with the land; (b) are made for the direct,

mutual, and reciprocal benefit of each parcel hereinabove described; (c) will create mutual equitable servitudes upon each Parcel in the Trappers Loop Commercial Park in favor of the Trappers Loop Commercial Park; (d) will bind every person having any fee, leasehold, or other interest in any portion of the Trappers Loop Commercial Park at any time or from time to time to the extent that such portion is affected or bound by the covenant, restriction, or provision is to be performed on such portion; and (e) will inure to the benefit of the Declaration and their respective successors and assigns as to the respective parcel of the land in the Trappers Loop Commercial Park and to the benefit of mortgagees under mortgages covering the Trappers Loop Commercial Park and beneficiaries and trustees under trust deeds covering the Trappers Loop Commercial Park.

13.05 Compliance with Laws. All Owners shall comply promptly with all federal, state, and municipal statutes and ordinances, and with all regulations, orders, and directives of appropriate governmental agencies pertaining to the use of occupancy of the Trappers loop Commercial Park, as such statutes, ordinances, regulations, orders, and directives now exist or may hereafter provide.

13.06 Benefit and Burden. The terms, covenants, and conditions contained herein shall inure to the benefit of and shall be binding upon the Declarants, all Owners, and any other person having any interest in the Trappers Loop Commercial Park and their respective legal representatives, successors, and assigns.

13.07. Intent and Purpose. The provisions of this declaration, and any Supplemental or Amended Declaration, shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of a shopping

center. Failure to enforce any provision, restriction, covenant, or condition in this Declaration, or in any Supplemental or Amended Declaration, shall not operate as a waiver of any such provision, restriction, covenant, or condition or of any other provisions, restrictions, covenants, or conditions.

13.08 Construction. Wherever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders. The articles and section heading set forth herein are for convenience and reference only and are not intended to describe, interpret, define, or otherwise affect the content, meaning, or intent of this Declaration or any article, section, or provision hereof. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall no affect the validity or enforceability of any other provision hereof.

13.09 Registration of Mailing Address. Each Owner shall register from time to time with the Declarants its current mailing address. All notices or demands intended to be served upon any Owner may be sent by first-class U.S. Mail, postage prepaid, addressed to the Owner at its registered mailing address, or , if no address has been registered, to the Building Area of such Owner. All notices or demands intended to be served upon Declarant – Soderby, Ltd. may be sent by first-class U.S. registered or certified mail, postage pre-paid, addressed to the Declarant – Soderby, Ltd. at its office at 938 E. Cherry Lane, Layton, UT 84040, or to such other address as the Declarant – Soderby, Ltd. my hereafter furnish to the Owners in writing.

13.10 Effective Date. This Declaration shall take effect immediately upon recording.

13.11 Owners Obligations. All obligations of each Owner under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that it may be leasing, renting, or selling its Parcel under contract. The Owner shall have no obligation for expenses or other obligations accruing after it conveys the fee title for such Building Area to another party.

13.12 Not a Partnership. The parties hereto do not by this Declaration, in any way or for any purpose, become partners or joint ventures of the other parties in the conduct of their respective businesses or otherwise. The provisions of this Agreement relating to sharing of common area expenses, the common management of the properties, and the granting of reciprocal easements are included solely for the purpose of providing a reasonable method for the allocation and management of common costs of operating and maintaining shared facilities and providing for mutual ingress and egress to contiguous parcels of real property.

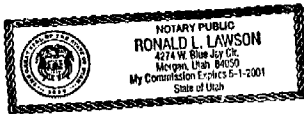
IN WITNESS WHEREOF, the Declarants have duly executed this Declaration the day and year first above written.

DECLARANT - SODERBY, LTD.


Soderby, Ltd.

STATE OF UTAH)
 : SS
COUNTY OF MORGAN)

On the 12th day of DEC, 2000, the foregoing instrument was acknowledged before me by DONALD D. JOHNSON, the signer of the foregoing Declaration, who being by me duly sworn did say that he is the GEN. PARTNER of SODERBY, LTD. and that he was authorized to, and did, execute the foregoing Declaration on behalf of said SODERBY LTD.




NOTARY PUBLIC

(SEAL)

BOUNDARY DESCRIPTION

A TRACT OF LAND SITUATE IN THE NORTHWEST QUARTER OF SECTION 25, AND THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 5 NORTH RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, MORGAN COUNTY, UTAH, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 25, A 1/2" REBAR;
 THENCE NORTH 00°17'10" EAST 35.88 FEET ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 25 TO THE CENTER OF COTTONWOOD CANYON CREEK AND THE TRUE POINT OF BEGINNING;

THENCE SOUTH 83°45'16" WEST 65.59 FEET ALONG THE CENTER OF COTTONWOOD CANYON CREEK;
 THENCE SOUTH 82°14'44" WEST 199.81 FEET ALONG THE CENTER OF COTTONWOOD CANYON CREEK TO THE QUARTER SECTION LINE;

THENCE SOUTH 89°36'59" EAST 371.13 FEET ALONG SAID QUARTER LINE TO THE SOUTHEAST CORNER OF THE LUIDON PROPERTY;

THENCE NORTH 00°00'00" EAST 53.69 FEET TO AN EXISTING FENCE;
 THENCE NORTH 77°30'00" EAST 39.08 FEET ALONG SAID FENCE TO A FENCE CORNER AND A REBAR/CAP;
 THENCE NORTH 19°08'16" EAST 316.00 FEET ALONG SAID FENCE TO A FENCE CORNER AND A REBAR/CAP;
 THENCE NORTH 53°23'16" EAST 240.00 FEET ALONG SAID FENCE TO A FENCE CORNER AND A REBAR/CAP;
 THENCE NORTH 26°05'45" EAST 88.66 FEET ALONG SAID FENCE TO A REBAR/CAP;
 THENCE SOUTH 89°14'54" EAST 272.00 FEET TO A REBAR/CAP;
 THENCE NORTH 00°17'10" EAST 203.00 FEET TO THE SOUTH LINE OF OLD HIGHWAY ROAD, A REBAR/CAP;

THENCE NORTHEASTERLY 122.71 FEET ALONG SAID SOUTH LINE, A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 2,904.90 FEET, AN INCLUDED ANGLE OF 2°25'13", AND A CHORD BEARING NORTH 83°53'08" EAST 122.69 FEET;

THENCE NORTH 82°40'32" EAST 780.90 FEET ALONG SAID SOUTH LINE;
 THENCE NORTHEASTERLY 45.53 FEET ALONG SAID SOUTH LINE, A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 1,392.70 FEET, AN INCLUDED ANGLE OF 1°52'23", AND A CHORD BEARING NORTH 83°36'43" EAST 45.52 FEET, TO AN EXTENSION OF A FENCE LINE EXTENDING SOUTH AND A NAIL/WASHER;

THENCE SOUTH 00°00'00" WEST 524.94 FEET ALONG SAID FENCE LINE EXTENDED TO A REBAR/CAP;
 THENCE SOUTH 63°45'00" WEST 506.63 FEET TO A REBAR/CAP;
 THENCE NORTH 90°00'00" WEST 16.36 FEET;
 THENCE SOUTH 00°00'00" WEST 94.00 FEET TO CENTER THE CENTER OF COTTONWOOD CANYON CREEK;

THENCE ALONG THE CENTER OF SAID CREEK THE FOLLOWING 9 COURSES:

THENCE NORTH 89°33'59" WEST 12.43 FEET;
 THENCE SOUTH 83°07'19" WEST 98.88 FEET;
 THENCE NORTH 58°39'44" WEST 65.15 FEET;
 THENCE NORTH 83°59'44" WEST 16.61 FEET;
 THENCE SOUTH 75°12'50" WEST 47.66 FEET;
 THENCE SOUTH 89°33'04" WEST 110.85 FEET;
 THENCE SOUTH 80°28'14" WEST 55.10 FEET;
 THENCE SOUTH 68°30'41" WEST 67.69 FEET;
 THENCE SOUTH 83°45'16" WEST 26.24 FEET TO THE POINT OF BEGINNING;

THE ABOVE DESCRIBED TRACT OF LAND CONTAINS 21.226 ACRES.

THE BASIS OF BEARING IS THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 25 CALLED: NORTH 00°17'10" EAST AS MONUMENTED.