

Recording Requested By And
When Recorded, Return To:

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PARK CITY MUNICIPAL CORPORATION
445 Marsac Avenue
P.O. Box 1480
Park City, Utah 84060-1480
Attention: City Manager and City Attorney

ALAN SPRIGGS, SUMMIT COUNTY RECORDER
1995 NOV 06 15:18 PM FEE \$154.00 BY DMG
REQUEST: FIRST AMERICAN TITLE CO UTAH

**MASTER DEED RESTRICTIONS AND AGREEMENT
FOR SILVER MEADOWS ESTATES**

THIS MASTER DEED RESTRICTIONS (the "Agreement") is made and entered into as of the 1st day of November, 1995 (the "Effective Date"), by Silver Meadows Estates, L.C., a Utah limited liability company ("Estates"), and Silver Meadows Estates Development, L.C., a Utah limited liability company ("Development") (Estates and Development are hereinafter collectively called "Owner"), Park City Municipal Corporation ("City"), and Evergreene Management Group, a Utah corporation ("Manager") (Owner, City and Manager are hereinafter individually called the "Party" and collectively the "Parties"), on the basis of the following facts:

W I T N E S S E T H:

WHEREAS, Owner owns the real property currently known as Silver Meadows Estates, more accurately described in Exhibit "A" attached hereto and incorporated herein, which, when combined with all dwellings, appurtenances, improvements and fixtures associated therewith shall hereafter be referred to as the "Property" and each of units 1 through 49 within the Property shall hereafter be individually referred to as a "Unit" and collectively as the "Units," which Units are located on that certain Plat Map recorded in the Official Records of Summit County, Utah on 11/06, 1995, as Entry No. 433941 in Book 441893 at Page .

WHEREAS, Estates owns Units 22, 23, 24, 27, 28, 29, 30, 32, 37, 38, 44, 45, 47, and 48 (the "Estates Units") which Estates intends to rent to "Qualified Individuals" (defined below) who are eligible tenants under Section 42 of the Internal Revenue Code of 1986, as amended ("Section 42");

WHEREAS, the Estates Units shall be subject to Section 42 during the compliance period as such term is defined in Section 42 (the "Section 42 Compliance Period"); and after the termination of the Section 42 Compliance Period, the Estates Units shall be subject to all of the same terms and conditions under this Agreement as shall apply to the other Units;

WHEREAS, Development owns all of the Units other than the Estates Units (the "Development Units") of which Development intends to (a) sell Units 1, 2, 5, 17, 19, 20, 25, 26, 31, 33, 34

and 46 to Alan D. Frandsen (the "Frandsen Units"); and (b) sell Units 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 21, 35, 36, 39, 40, 41, 42, 43 and 49 to Qualified Individuals (defined below);

WHEREAS, City has agreed to waive certain building and permit fees and to grant other rights in consideration for the covenants in this Agreement and all of the documents and amendments related thereto (collectively, the "Documents"); and

WHEREAS, as a condition of development approval, Owner agrees that upon the sale of each Unit, Owner shall have the transferee enter into separate Deed Restrictions for the benefit of City on the form attached as Exhibit "B" hereto.

A G R E E M E N T

NOW, THEREFORE, in consideration of the covenants set forth herein and other value received, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby represent, covenant and agree as follows:

1 COVENANT TO RESTRICT SALES TO QUALIFIED INDIVIDUALS.

1.1 GENERAL. The sale of the Units shall be limited exclusively to purchasers who meet the definition of Qualified Individuals except that any of the Units may be sold to City, the Frandsen Units may be sold initially to Alan Frandsen and, notwithstanding anything in this Agreement to the contrary, the Estates Units may be sold in bulk to any entity that agrees to be bound by the terms of this Agreement. Any sale, assignment, encumbrance or other conveyance of any ownership interest in Owner or the owners of Owner shall not require City's consent or approval. In the event that no Qualified Individual is available to purchase a Unit on the terms and conditions in this Agreement, then Owner shall have the right to sell that Unit to a purchaser that is not a Qualified Individual.

1.2 Deed Restrictions. Owner shall cause Owner's initial successor-in-interest in each Unit (excluding lessees of the Estates Units under leases that do not exceed 24 months) to execute the Deed Restrictions attached as Exhibit "B" hereto for the benefit of City. At the time of any conveyance to a Qualified Individual or other transferee authorized hereunder, Owner shall execute an additional assignment of the Deed Restrictions required by the City pursuant to this Agreement in the form attached as Exhibit "C" hereto.

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1.3 Invalid Conveyances. In the event the Property or Unit is sold and/or conveyed without compliance herewith, such sale and/or conveyance shall be wholly null and void and shall confer no title whatsoever upon the purported buyer. Each and every conveyance of the Property or Unit, for all purposes, shall be deemed to include and incorporate by this reference the covenants herein contained, even without reference therein to

this Agreement.

2 SALE & OPTION TO PURCHASE.

2.1 Offer. Subject to Section 1.1., in the event that an Owner desires to sell a Unit (or in the case of the Estates Units, any single Estates Unit) that selling Owner shall first offer the Unit to City (the "Option") at the "Maximum Sales Price" (defined below) by delivering a written notice of such offer to City. The date that the selling Owner delivers such a notice to City shall be the "Offer Date." The selling Owner shall simultaneously deliver a copy of that notice to Manager.

2.2 Option to City. City shall have 45 days after the Offer Date to exercise the Option by delivering to the selling Owner written notice of City's exercise of the Option. City shall use its best efforts to notify the selling Owner of whether City will exercise the Option as early as possible within that 45-day period. If City elects to exercise the Option, City shall finalize the acquisition of the Unit within 30-days after delivering notice of City's election to exercise the Option. If City does not deliver that notice to the selling Owner within that initial 45-day time period or close within 30 days after delivering that notice, City's Option shall automatically expire without the need for further notice or documentation.

2.3 Sale to Qualified Individual. Upon expiration of the Option, the selling Owner shall have the right, but not the obligation, to sell the Unit (or in the case of the Estates Units, any single Estates Unit) to the highest-ranking Qualified Individual on the list of Qualified Individuals (the "List") maintained by Manager. In order to be placed on the List, a Qualified Individual must deliver to Manager written evidence of being adequately pre-qualified for financing the purchase of a Unit. If there is no Qualified Individual on the List, the selling Owner shall have the right to sell the Unit to any other Qualified Individual.

The Qualified Individuals shall be ranked on the List according to the following criteria: (1) the amount of the purchase price that the Qualified Individual is willing and able to pay, which amount shall not exceed the Maximum Sales Price; (2) the speed with which the Qualified Individual is willing and able to close the transaction; and (3) the time that the Qualified Individual applied to be placed on the List with the first applicant receiving more points than the second applicant and so on.

For example, suppose that there are four Qualified Individuals on the List when a Unit comes available for sale: Qualified Individual A will pay \$120,000 and close in 30 days; Qualified Individual B will pay \$115,000 and close in 15 days; Qualified Individual C will pay \$120,000 and close in 60 days; and Qualified Individual D will pay \$120,000 and close in 30 days.

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In the initial round of analysis, based upon price, Qualified Individuals A, C and D tie for first place because they all have the same and highest price. Qualified Individual B is no longer considered for the specific Unit in question, but remains on the List for other Units that may become available. In the next round of analysis relative to the remaining Qualified Individuals A, C, and D, Qualified Individuals A and D tie for first place because they each will close in 30 days. Qualified Individual C is no longer considered for the specific Unit in question, but remains on the List for other Units that may become available. In the final round of analysis relative to the remaining Qualified Individuals A and D, Qualified Individual A is given first place because Qualified Individual A was placed on the List before Qualified Individual D. Qualified Individual D is no longer considered for the specific Unit in question, but remains on the List for other Units that may become available.

2.4 Sale to Non-Qualified Individual. If, after using best efforts to sell the Unit (or in the case of the Estates Units, any single Estates Unit) to a Qualified Individual, a Qualified Individual does not purchase the Unit within 120 days following the Offer Date, the selling Owner shall have the right to sell the Unit to any buyer that is eligible under applicable laws at the Maximum Sales Price or below.

2.5 List. Manager shall maintain at Manager's office the List which shall record the Qualified Individuals in the order of the dates on which they applied to be placed on the List. The List shall be available for review by City, the public and Owner during regular business hours. Commencing January 1, 1996, Manager shall deliver an updated copy of the List to City on a quarterly basis and upon any other request of the City. Manager shall notify City in writing at any time that there are fewer than 24 Qualified Individuals on the List.

2.6 Miscellaneous. Notwithstanding anything in the Documents to the contrary, City shall not exercise the Option in connection with (a) the first sale of any Unit by Owner; or (b) any rental of any Unit for a term of less than 2 years. Nothing in this Agreement shall be interpreted to force a selling Owner to sell a Unit against that selling Owner's will. The selling Owner shall have the right to list a Unit for sale at or below the Maximum Sales Price with any licensed broker. The selling Owner shall have the right to obtain back-up offers to purchase a Unit so long as those back-up offers are conditioned upon satisfaction of the other rights and obligations of the Parties under this Agreement.

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3 MAXIMUM SALES PRICE. In no event shall a Unit be sold for an amount in excess of the "Maximum Sales Price" which shall constitute \$120,000, or the actual purchase price, whichever is less, plus an increase of three percent of such price per year from the date of purchase to the date of Owner's notice to City of Owner's intent to sell (prorated at the rate of 0.25 percent for each whole month for any part of a year).

3.1 Breach Freezes Appreciation. Upon the occurrence of an "Event of Default" (defined below), the Maximum Sales Price of the Property or Unit in default shall, upon the date of such breach as determined by City, automatically cease to increase as set out in this Agreement for the Property or Unit in default, and shall remain fixed until the date such Event of Default is cured.

3.2 No Guaranty. NOTHING HEREIN SHALL BE CONSTRUED TO CONSTITUTE A REPRESENTATION OR GUARANTY BY CITY THAT ON SALE OWNER SHALL OBTAIN THE MAXIMUM SALES PRICE.

3.3 Permitted Capital Improvements.

3.3.1 General. For the purpose of determining the Maximum Sales Price, Owner may add to the amount specified in Paragraph 3 above, the cost of Permitted Capital Improvements (as defined in Exhibit "D") in a total amount not to exceed \$12,000 (as increased by the "Consumer Price Index" [defined in Section 4.2 below] each year). In calculating such amount, only those Permitted Capital Improvements identified in Exhibit "D" hereto shall qualify for inclusion. All such Permitted Capital Improvements installed or constructed over the life of the Unit shall qualify. However, the allowance permitted by this Paragraph is a fixed amount, which shall be calculated on a cumulative basis applicable to Owner and all subsequent purchasers, and shall not exceed the maximum dollar amount set forth in this Paragraph.

3.3.2 Exclusions. Permitted Capital Improvements shall not include any changes or additions to the Property or Unit made by Owner during construction or thereafter, except in accordance with Paragraph 3.3.1 above. Permitted Capital Improvements shall be included in City's listed purchase price, even if made or installed during original construction.

3.3.3 Qualification. In order to qualify an improvement as a Permitted Capital Improvement, Owner must furnish to City the following information with respect to the improvements which Owner seeks to include in the calculation of Maximum Sales Price:

3.3.3.1 Original or duplicate receipts to verify the actual costs expended by Owner for the Permitted Capital Improvements;

3.3.3.2 Owner's affidavit verifying that the receipts are valid and correct receipts tendered at the time of purchase; and

3.3.3.3 True and correct copies of any building permit or certificate of occupancy requires to be issued by the Park City Building Department with respect to the Permitted Capital Improvements.

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3.3.4 Out-Of-Pocket Costs. In calculating the costs under Paragraph 3.3.1 through 3.3.3, only the Owner's actual out-of-pocket costs and expenses shall be eligible for inclusion. Such amount shall not include an amount attributable to Owner's profit, "sweat equity", or to any appreciation in the value of the improvements.

3.4 Inducements to Sell Prohibited. Owner shall not permit any prospective buyer to assume any or all of Owner's customary closing costs nor accept any other consideration which would cause an increase in Owner's return on the sale so as to induce Owner to sell to such prospective buyer.

4 RENTAL.

4.1 Rental Rates.

4.1.1 Estates Units. Rental rates and components (including statutory utility allowances) for the Estates Units (regardless of whether those Units have 2 or 3 bedrooms) may not exceed (a) the statutory income limitations applicable to each of the Estates Units (as set forth below) all as regulated by Section 42, or, (b) if a lesser amount, the rate of \$825 per month adjusted on January 1 of each year by the Consumer Price Index using a base year of 1995. The income limitations applicable to the Estates Units under Section 42 are as follows: (i) the rental rate for 3 of the Estates Units shall not exceed 30 percent of 35 percent of the "median income" as defined in Section 42; (ii) the rental rate for 5 of the Estates Units shall not exceed 30 percent of 50 percent of the median income; and (iii) the rental rate for 6 of the Estates Units shall not exceed 30 percent of 59 percent of the median income.

4.1.2 Other Units. Rental rates and components (including homeowner association fees and other non-discretionary charges but excepting utilities and actual costs of cable television to the Units) for all Units (regardless of whether those Units have 2 or 3 bedrooms), other than the Estates Units, shall not exceed the rate of \$825 per month adjusted on January 1 of each year by the Consumer Price Index using a base year of 1995. Except with respect to the Estates Units or in the event that Owner uses best efforts to rent to a Qualified Individual and no Qualified Individual is available as contemplated in Section 4.3, any rents paid by tenants that are not Qualified Individuals shall be placed into an escrow approved by City pending determination of the disposition of those rents in accordance with applicable laws. Qualified Individual tenants are intended to be third party beneficiaries of this Section 4.1.

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4.2 Consumer Price Index. The "Consumer Price Index" shall mean the increase that is the greater of the Department of Labor and Commerce, Bureau of Labor Statistics Consumer Price Index, All Urban for the Salt Lake Metropolitan areas or, if available, for the Department of Labor and Commerce, Bureau of Labor Statistics Consumer Price Index, All Urban, for

Summit County, Utah (the "Consumer Price Index"). The Consumer Price Index shall be deemed to have a base year of 1995.

4.3 Qualified Individuals. To the extent that Owner rents any Units, Owner shall utilize reasonable efforts, including giving City and Manager reasonable written notice of vacancies, to give preference to Qualified Individuals whenever possible, so long as (1) the Qualified Individuals meet all the standard income, background, employment and other tenant checks, as uniformly and fairly applied to all prospective or renewal tenants; and (2) giving such priority does not violate any applicable laws. Owner will not knowingly allow any tenant to sublease, assign or otherwise convey any interest in any lease to a person that is not a Qualified Individual until after best efforts have been used to lease to a Qualified Individual. In the event that Owner uses best efforts to rent to a Qualified Individual and no Qualified Individual is available, Owner shall have the right to rent to any other tenant that is eligible under applicable laws.

"Qualified Individuals" means individuals (whether or not related) and families who have either been (i) a resident of City for the prior 24 months; (ii) a full-time regular employee, of the Park City School District, Park City Fire District, Snyderville Basin Sewer Improvement District, or Park City Municipal Corporation; (iii) a full-time regular employee (with a minimum of 30 hours of employment per week) of a business or businesses within City limits; (iv) an owner or owner's representative of a business within City limits; or (v) for the Estates Units only, a renter who is a qualified tenant under Section 42 as administered by the Utah Housing Finance Agency. Nothing in subsection (v) immediately above shall limit Owner's obligation to utilize reasonable efforts to give priority in the rentals and sales contemplated under this Agreement to individuals and families that meet the other standards under subsections (i) through (iv) immediately above, to the extent that such priority is lawful under applicable laws.

4.4 Compliance and Non-Discrimination. At all times, Owner shall comply with all applicable federal and state housing laws, shall not discriminate against any tenant on the basis of race, sex, creed, sexual orientation, or color, and shall operate and manage the Property in a consistent and uniform manner. This Agreement is not intended to confer rights on third parties, nor to conflict in any manner with Section 42. In the event of any conflict between the regulations under Section 42, including the eligibility processing described in HUD Handbook Section 4350.3, and this Agreement, the regulations under Section 42 shall govern. Notwithstanding anything in this Agreement to the contrary, during the Section 42 Compliance Period none of the Estates Units shall be designated for employees of a particular employer including City.

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4.5 Records. Owner shall prepare and keep on file for review by City all records required to be maintained by either

the Utah Housing Finance Agency and/or the Internal Revenue Service pertaining to the rent restrictions and other occupancy covenants herein. Owner shall deliver to City at least annually, and as otherwise reasonably requested by City, periodic reports and certifications respecting the ownership and occupancy of the Units owned by Owner.

4.6 Sharing Occupancy. The requirements of this Agreement shall not preclude owner from sharing occupancy of a Unit with non-occupants on a rental basis. Owner shall require all tenants and occupants to abide by this Agreement.

4.7 Miscellaneous. Owner shall not rent a Unit for nightly rental.

5 SECURED OBLIGATIONS. All provisions in this Section 5 are subject to Section 1.1.

5.1 Definitions.

5.1.1 Secured Equity. The "Secured Equity" shall mean only the equity and capital contributions to Owner and Owner's successors and assigns by Zions First National Bank and its successors and assigns ("Zions Bank") relative to the Estates Units in an aggregate amount not to exceed \$85,700 for each Estates Unit. The Secured Equity shall exist only during the Section 42 Compliance Period plus two years. That time period may be extended so long as Zions Bank is making a reasonable effort to cause the Estates Units to be sold or to withdraw from or convey its equity interest in the Estates Units.

5.1.2 Secured Debt. The "Secured Debt" shall mean only the following debt and only to the extent that the aggregate amount of such debt and the Secured Equity does not exceed 95 percent of the Maximum Sales Price for each Unit affected: (a) all encumbrances currently recorded against the Property for the benefit of Zions Bank; (b) all purchase money financing for each Unit; and (c) all advances, refinances, modifications, extensions, permanent loans (including permanent loans to Owner encumbering Property made by lenders other than Zions Bank), other encumbrances associated therewith regardless of when arising, assignments, conveyances, encumbrances, syndications and other transfers of any of the foregoing.

5.1.3 Secured Obligations. The "Secured Obligations" shall mean the Secured Equity and the Secured Debt. The holder of a Secured Obligation or its successor or assign is hereinafter called the "Secured Obligation Holder."

5.2 Priority. The Documents are hereby and shall be senior in priority to the Secured Obligations in place as of the date that this Agreement is recorded against the Property. Owner shall provide City with a subordination agreement in the form attached as Exhibit "E" hereto whereby Zions Bank agrees to subordinate its encumbrance to the Documents. Notwithstanding

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anything in this Agreement to the contrary, City shall not take any actions or exercise any remedies under this Agreement, at law, in equity or otherwise without the consent of the Secured Obligation Holder to the extent that such actions or remedies shall have a material adverse impact upon the security, equity position and/or other material rights of the Secured Obligation Holder. Secured Obligation Holder acknowledges by its subordination and/or its future advances, City's valid and continuing interest in maintaining the ownership and occupancy criteria of all Units.

5.3 Cross-Default. Any uncured default under the Secured Obligation documents shall constitute an "Event of Default" (defined below) under this Agreement. A breach of the Secured Obligation documents by a particular Owner (the "Debt Defaulting Owner") or Unit (the "Debt Defaulting Unit") shall not constitute a breach by any other Owner of any other Unit.

5.4 City's Notice and Rights. This Agreement shall constitute a request for notice recorded in the Official Records of Summit County entitling the City to receive statutory notices of any default on a Debt Defaulting Unit. City shall have the right to record a separate request for statutory notices.

The Debt Defaulting Owner must notify City, in writing, of any notice of past due payments or default in payment or other obligations due or to be performed under any debt secured by the Debt Defaulting Unit within five calendar days following the Debt Defaulting Owner's receipt of such notice of default. Upon City's receipt of such notice of default and if such default is not cured within the time periods contemplated under the applicable documents, City shall have the right, but not the obligation, to take and/or require the following actions:

5.4.1 Loan Services. City may offer loan counseling or distressed loan services to the Debt Defaulting Owner, if any of these services are available.

5.4.2 City Cure and Lien. City shall have the right, in its sole discretion, to cure the default or any portion thereof. In such event, the Debt Defaulting Owner shall be personally liable to City, and hereby authorizes City to lien the Debt Defaulting Unit, for past due payments made by City together with interest thereon at the rate of one percent per month and all actual expenses of City reasonably incurred in curing the default. For purposes of this Section 5.4.2, during the Section 42 Compliance Period, the Estates Units shall be treated as one Debt Defaulting Unit. At City's request, the Debt Defaulting Owner shall execute a promissory note and deed of trust encumbering the Debt Defaulting Unit in favor of the City for the above amounts expended by City, including security for future advances made for such purposes. Any such note or deed of trust shall be subject to this Agreement and subordinate to the Secured Obligations. The Debt Defaulting Owner may cure the default and satisfy its obligation to City under this Paragraph

at any time prior to a sale to a Qualified Individual. Otherwise, City may record a lien on the Debt Defaulting Unit to evidence such indebtedness, which together with interest thereon, which may be foreclosed in the same manner as any other deed of trust subject to the consent of the Secured Obligation Holder.

5.4.3 Purchase Option. With the consent of the Secured Obligation Holder, City may exercise the Option in Section 2 above. The date on which City receives notice of a default under Section 5.4 shall constitute the Offer Date.

5.4.4 Mandatory Sale. With the consent of the Secured Obligation Holder, City may require the Debt Defaulting Owner to offer to sell the Debt Defaulting Unit to a Qualified Individual to avoid the commencement or completion of any foreclosure proceeding against the Debt Defaulting Unit. Any buyer of the Debt Defaulting Unit shall take ownership of that Unit subject to the Secured Obligations. In the event of the Debt Defaulting Owner fails to cure the default in question within the time period afforded by the Secured Obligation documents and City reasonably determines that sale of the Debt Defaulting Unit is necessary, City shall so inform the Debt Defaulting Owner in writing. Notwithstanding anything in this Agreement to the contrary, this Section 5.4.4 shall not be applicable to the Estates Units during the Section 42 Compliance Period.

6 NO ADDITIONAL DENSITY. In no event shall Owner create an additional dwelling unit, as defined in the Park City Land Management Code, in or on the Property.

7 NO CITY GUARANTY. Nothing herein shall be construed to require City to protect or indemnify Owner against any losses attributable to the rental, including (not by way of limitation) non-payment of rent or damage to the Property; nor to require City to obtain a Qualified Individual for Owner in the event that none is found by Owner.

8 REPAIR AND MAINTENANCE. Owner covenants, agrees and warrants that each Unit is and will remain in good condition and fit and suitable for occupancy. Owner shall cause each Unit to be maintained and operated, in a first-class fashion, at all times, in strict compliance with the terms of this Agreement, the covenants, conditions and restrictions associated with the Property and other applicable laws including City building and zoning codes. If any Unit, or part thereof, shall be damaged or destroyed, Owner will use its best efforts to repair and restore the Unit to substantially the same condition as existed prior to the event causing such damage or destruction and thereafter to operate the Unit in accordance with the terms of this Agreement.

9 TERM OF AGREEMENT. The term of this Agreement shall commence as of the date first set forth above and shall continue in full force and effect in perpetuity. In the event that for any reason the term of this Agreement shall not continue in perpetuity, the term shall continue in full force and effect

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until the date that corresponds to the life in being of the last surviving student of the 1995 graduating class of McPolin Elementary School, Park City, Utah, plus 21 years. Owner hereby waives any defenses, rights or remedies that it might otherwise assert against City in connection with the following:

9.1 The application of the rule against perpetuities to the Documents; Owner agrees that the Documents shall be enforceable against Owner notwithstanding any application of the rule against perpetuities;

9.2 Any claim that the covenants in the Documents recorded against the Property are not real covenants running with the land; and

9.3 Any claim that the covenants in the Documents recorded against the Property are not at least equitable servitudes intended to run with the land.

This waiver shall be binding upon and inure to the benefit of the successors and assigns of Owner and the City.

10 **RIGHT TO INSPECT.** In the event that City has reasonable cause to believe Owner is violating the provisions of the Documents, City, by its authorized representative, may inspect the Property or Unit between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, after providing Owner with no less than 24-hours' prior written notice. Nothing in this Agreement shall limit City's police powers.

11 **DEFAULT.**

11.1 **Event of Default.** An "Event of Default" shall occur under the Documents where a Party fails to perform any of its obligations under the documents within 30 days following that defaulting Party's receipt of notice of such default. Notwithstanding the foregoing, if the default cannot be reasonably cured within the 30-day period, the defaulting Party shall not be in default so long as the defaulting Party commences to cure the default within that 30-day period and diligently continues such cure with good faith until complete.

11.2 **Defaulting Owner and Unit.** Any specific Owner who is threatening to commit or actually commits an Event of Default is herein called a "Defaulting Owner." The Unit owned by a Defaulting Owner is herein called the "Defaulting Unit."

12 **REMEDIES.** Subject to the provisions of Section 12.6 below, upon the occurrence of an Event of Default the non-defaulting Party may exercise all rights and remedies available at law and in equity. Those rights and remedies shall be cumulative. All costs, including attorney's fees, incurred by the non-defaulting Party in exercising its remedies shall be an additional award to the non-defaulting Party. Furthermore, upon the occurrence of an Event of Default by a Defaulting Owner, and

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subject to the provisions of Section 12.6 below, City may resort to any or all of the following remedies to enforce against the Property, or cause the Defaulting Owner to comply with, the covenants and restrictions herein: (i) monetary damages; (ii) punitive damages; and (iii) the following additional remedies:

12.1 Substitute Performance. If any Defaulting Owner defaults under any obligation associated with a Defaulting Unit, City shall have the right to perform that obligation on behalf of that Defaulting Owner. That Defaulting Owner shall reimburse City for any costs incurred by City in performing such obligations. If the Defaulting Owner fails to reimburse City for those costs, City shall have the right to place a lien on the Defaulting Unit for the amount of such reimbursement and associated damages. Subject to the consent of the Secured Obligation Holder, City may execute on any judgement and foreclose on any lien against a Defaulting Unit or Defaulting Owner.

12.2 Power of Reverter; Revocation of Unauthorized Conveyance; Power of Sale and Unlawful Detainer. Subject to the consent of the Secured Obligation Holder, if the Defaulting Unit has been sold, assigned or leased to a buyer, assignee, lessee or other transferee in violation of this Agreement (an "Unauthorized Conveyance") City may revoke that Unauthorized Conveyance by exercising the power of reverter and sale, eviction or other lawful means and take possession and ownership of the Defaulting Unit by delivering to the Defaulting Owner a written declaration of default and demand for reverter, sale, eviction or otherwise. Subject to the consent of the Secured Obligation Holder, City shall have the right to sell the Defaulting Unit (if the Unauthorized Conveyance is a sale) or evict a tenant (if the Unauthorized Conveyance is a lease) in accordance with applicable laws governing deeds of trust with powers of reverter, sale and/or unlawful detainer. Subject to the consent of the Secured Obligation Holder, City shall have the right to act as its own trustee or to appoint an independent trustee to process the foreclosure, reverter, sale and/or unlawful detainer. Subject to the consent of the Secured Obligation Holder, City shall have the right to appoint a receiver for the purpose of renting the Defaulting Unit to a Qualified Individual pending the sale of the Defaulting Unit on the other terms hereunder.

12.3 Injunctive Relief. City shall be entitled to specific performance of, and injunctive and other equitable relief against, the Defaulting Owner.

12.4 Lien. City shall be entitled to place a lien and security interest upon all of the Defaulting Owner's right, title and interest in and to the Defaulting Unit subject to this Agreement and subordinate to the Secured Obligations. With the consent of the Secured Obligation Holder, City may exercise all rights and remedies available at law and in equity relative to that lien including the right to foreclose upon that lien. For purposes of this Section 12.4, during the Section 42 Compliance

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Period, the Estates Units shall be treated as one Debt Defaulting Unit.

12.5 Other. Subject to the consent of the Secured Obligation Holder, City shall be entitled to enforce performance of any obligations secured hereby and to exercise all rights and powers under the Documents or any laws now or hereafter in force, notwithstanding that some or all of said obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Subject to the limitations in the Documents and the consent of the Secured Obligation Holder, neither the acceptance of this Agreement nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect City's right to realize upon or enforce any other security now or hereafter held by City, it being agreed that City shall be entitled to enforce this Agreement and any other security now or hereafter held by City in such order and manner as City may, in its absolute discretion, determine. No remedy conferred upon or reserved to City by the Documents is intended to be exclusive of any other remedy, but each shall be cumulative and shall be in addition to every other remedy given by the Documents or now or hereafter existing at law, in equity or by statute. Every power or remedy given by the Documents to City or to which City may be otherwise entitled may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by City; and City may pursue inconsistent remedies.

12.6 Consent of Secured Obligation Holder. Notwithstanding anything in the Documents to the contrary, City shall not exercise any rights or remedies or take any other actions under any Documents (including execution on any judgement against the Defaulting Owner or the Defaulting Unit) without the consent of the Secured Obligation Holder to the extent that the exercise of those rights, remedies or actions may have a material adverse impact upon the security, equity position and/or other material rights of the Secured Obligation Holder. The Secured Obligation Holder shall consent to actions by City under this Agreement so long as (a) City covenants in writing to pay or assume all amounts due under the Secured Obligations and the rights of the Secured Obligation Holder as limited by Section 5.1 above, (b) no action has been filed by or against City for insolvency, bankruptcy or reorganization for financial insolvency purposes and (c) those actions do not have a material adverse impact upon the security, equity position and/or other material rights of the Secured Obligation Holder. 00441895 Bx00922 Pg00238

12.7 Rights of Interested Parties to Cure. At the time that City sends any notice of default to a Defaulting Owner hereunder, City shall send a written copy of that same notice to (a) the Secured Obligation Holder encumbering the Property in question, (b) Estates so long as Estates is an Owner, (c) Manager and (d) the Silver Meadows Estates Homeowners Association (the "Association") (Secured Obligation Holder, Estates, Manager and

Association are hereinafter collectively, the "Interested Parties"), at the addresses that the Interested Parties shall supply to City from time to time or as recorded in the official records of Summit County, Utah. Each Interested Party shall give City written notice of any change in its address. Subject to the consent of the Secured Obligation Holder, the Interested Parties shall have the right, but not the obligation, to cure any default indicated in such notice within the same time period as granted to the Defaulting Owner hereunder, which time period shall commence for each Interested Party as of the date that such Interested Party receives notice of the default in question. City shall not exercise any remedies under the Documents until after the Interested Parties have failed to cure the default in question within the applicable time period. Nevertheless, subject to the consent of the Secured Obligation Holder, City shall have the right to take the actions necessary to preserve its rights and remedies pending any cure by the Interested Parties contemplated herein. Nothing in this provision shall be deemed to create any obligation on the part to the Interested Parties to cure any default hereunder.

13 LIMITATIONS ON LIABILITY.

13.1 Discontinuance of Liability Following Conveyance. Following the recording of a warranty deed conveying a Unit to a purchaser authorized under the Documents, the transferor of that Unit shall have no further liability under the Documents respecting that Unit, except to the extent caused by the negligence or intentional misconduct of that transferor or the failure of that transferor to have the purchaser execute the Deed Restrictions attached as Exhibit "B" hereto.

13.2 Severable Obligations and Liabilities. The Parties understand that many of the Units will eventually be owned by different individuals and entities. The Owner of a particular Unit, and that Unit itself, shall not be liable for, or encumbered by, the obligations or liabilities under the Documents associated with any other Unit or Owner of any other Unit.

13.3 Non-Recourse. Owner's owners, directors, officers, employees, agents, and contractors shall have no personal, deficiency or recourse liability under the Documents. Owner's liability under the Documents shall be limited solely to Owner's interests in the Units and the proceeds therefrom, except in the following circumstances:

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13.3.1 Failure of Deed Restrictions. Owner's failure to have the initial purchaser of Owner's Unit execute and deliver to City the Deed Restrictions in the form of Exhibit "B" hereto and/or Owner's failure to execute and deliver to City the Assignment of Deed Restrictions in the form of Exhibit "C" hereto.

13.3.2 Waste. Any waste which is caused by

the gross negligence or intentional misconduct of Owner on or in connection with the Property;

13.3.3 Fraud and Misrepresentation. Any fraud or material misrepresentation by Owner in connection with the Property or the Documents; and/or

13.3.4 Gross Negligence. Any cost or liability incurred by City which is the result of the gross negligence or intentional misconduct of Owner.

13.4 Personal Responsibilities. Notwithstanding anything herein to the contrary, Peter S. Cooke, Mark B. Cohen and Helen Kessler shall also be personally liable for Owner's failure to have the initial purchaser of Owner's Unit execute and deliver to City the Deed Restrictions in the form of Exhibit "B" hereto and/or Owner's failure to execute and deliver to City the Assignment of Deed Restrictions in the form of Exhibit "C" hereto.

14 NOTICES. Any notice, consent or approval which is required herein shall be in writing and given by mailing the same, certified mail, return receipt requested, properly addressed and with postage fully prepaid, to any address provided herein or to any subsequent mailing address of the Party as long as prior written notice of the change of address has been given to the other Parties.

Any notice by any Party shall also be delivered simultaneously to Association and to Zions Bank so long as Zions Bank is a Secured Obligation Holder. Said notices, consents and approvals shall be sent to the Parties at the following addresses unless notified in writing:

To Owner: Silver Meadows Estates, L.C.
Silver Meadows Estates Development, L.C.
132 South 600 East
Salt Lake City, Utah 84102

To City: City Manager and City Attorney
Park City Municipal Corporation
P.O. Box 1480
Park City, Utah 81611

To Association: Silver Meadows Estates Homeowners
Association 00441895 Bk00922 Pg00240
132 South 600 East
Salt Lake City, Utah 84102

To Manager: Evergreene Management Group
132 South 600 East
Salt Lake City, Utah 84102

To Zions Bank: Zions First National Bank
Investment Department

13th Floor Kennecott Building
Salt Lake City, Utah 84133
Attention: Rick D. Burtenshaw

With Copies To: Callister, Nebeker & McCullough
Suite 900 Kennecott Building
Salt Lake City, Utah 84133
Attention: John H. Rees

The Parties shall promptly deliver to each other written notice of any change in their respective addresses.

15 **EXHIBITS.** All exhibits attached hereto are incorporated herein and by this reference made a part hereof.

16 **SEVERABILITY.** Whenever possible, each provision of the Documents shall be interpreted in such a manner as to be valid under applicable law; but if any provision of any of the foregoing shall be invalid or prohibited under said applicable law, such provisions shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provisions of such Document.

17 **ATTORNEYS' FEES.** If any Party shall take or defend against any action for any relief against another Party arising out of the Documents, the prevailing Party in such action or defense shall be entitled to be reimbursed by the losing Party for all costs including, but not limited to, attorneys' fees and court costs, incurred by the prevailing Party in such action or defense and/or enforcing any judgement granted therein, all of which costs shall be deemed to have accrued upon the commencement of such action and/or defense and shall be paid whether or not such action or defense is prosecuted to judgement. Any judgement or order entered in such action or defense shall contain a specific provision providing for the recovery of attorneys' fees and costs incurred in enforcing such judgement. For the purposes of this section, attorneys' fees shall include, without limitation, fees incurred in the following: (1) post-judgement motions; (2) contempt proceedings; (3) garnishment, levy, and debtor and third-party examinations; (4) discovery; and (5) bankruptcy litigation.

Attorneys' fees incurred in enforcing any judgement in a legal action pursuant to this Paragraph are recoverable as a separate item. This entitlement to post-judgement attorneys' fees is intended to be severable from the other provisions of this document, and to survive any judgement, and is not deemed merged into the judgement.

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18 **CONSENTS.** No consent, approval or authorization under the Documents shall be unreasonably withheld, conditioned or delayed; provided however, that notwithstanding anything under the Documents to the contrary, any consent, approval, authorization required or the determination of any material adverse impact or affect required under the Documents from Zions

Bank as a Secured Obligation Holder on the Estates Units shall be requested and given or withheld in advance, in writing, in the sole discretion of Zions Bank.

19 **CHOICE OF LAW.** The Documents shall be governed and construed in accordance with the laws of the State of Utah.

20 **SUCCESSORS.** Except as otherwise provided herein, the provisions and covenants contained herein shall inure to and be binding upon the heirs, successors and assigns of the Parties.

21 **PARAGRAPH HEADINGS.** Paragraph or section headings within the Documents are inserted solely for convenience of reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

22 **WAIVER.** No claim of waiver, consent or acquiescence with respect to any provision of the Documents shall be valid against any Party hereto except on the basis of a written instrument executed by the Parties. However, the Party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.

23 **GENDER AND NUMBER.** Whenever the context so requires herein, the neuter and gender shall include any or all genders and vice versa and the use of the singular shall include the plural and vice versa.

24 **MODIFICATIONS.** The Parties agree that any modifications of the Documents shall be effective only when made by writings signed by the Parties and recorded with the Clerk and Recorder of Summit County, Utah, if the Documents being amended have been so recorded.

25 **RECORDING AND FILING; COVENANTS TO RUN WITH THE LAND.**

25.1 **Recordation.** Upon execution and delivery by Owner and City, Owner shall cause this Agreement to be recorded and filed in the official public land deed records of Summit County, Utah, and shall pay all fees and charges incurred in connection therewith.

25.2 **Covenants Run With Land.** Owner intends, declares and covenants, on behalf of itself and all future owners and operators of the Property, that this Agreement and the covenants, restrictions and equitable servitudes set forth in this Agreement regulating and restricting the rents, use, occupancy and transfer of the Property (a) shall be and are covenants running with the

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land and improvements, and encumbering the Property for the term of this Agreement, binding upon Owner, its grantees, successors and assigns and the grantees and successors and assigns of them, or any of them, (b) are not merely personal covenants of Owner or City, (c) shall bind Owner (and the benefits shall inure to City) and their respective successors and assigns, and (d) are intended to run with the land and improvements associated with the Property and be equitable servitudes.

26 INTEGRATION. The Documents and exhibits thereto constitute the entire agreement between the Parties with respect to the matters set forth herein.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the Effective Date.

OWNER:

Silver Meadows Estates, L.C.,
a Utah limited liability company

By: Silver Meadows Estates Development, L.C.,
a Utah limited liability company

By: PSC Development Company,
a Utah corporation, Managing Member

By: _____
Peter S. Cooke, President

Silver Meadows Estates Development, L.C.,
a Utah limited liability company

By: PSC Development Company,
a Utah corporation, Managing Member

By: _____
Peter S. Cooke, President

MANAGER

Evergreene Management Group,
a Utah corporation

By: _____
Helen Kessler, President

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By: 
Peter S. Cooke, President

Silver Meadows Estates Development, L.C.,
a Utah limited liability company

By: PSC Development Company,
a Utah corporation, Managing Member

By: 
Peter S. Cooke, President

MANAGER

Evergreene Management Group,
a Utah corporation

By: 
Helen Kessler, President

00441895 Bx00922 Ps00244

As to individual agreement with, and liability under, Section 13.4 only:

Peter S. Cooke
Peter S. Cooke

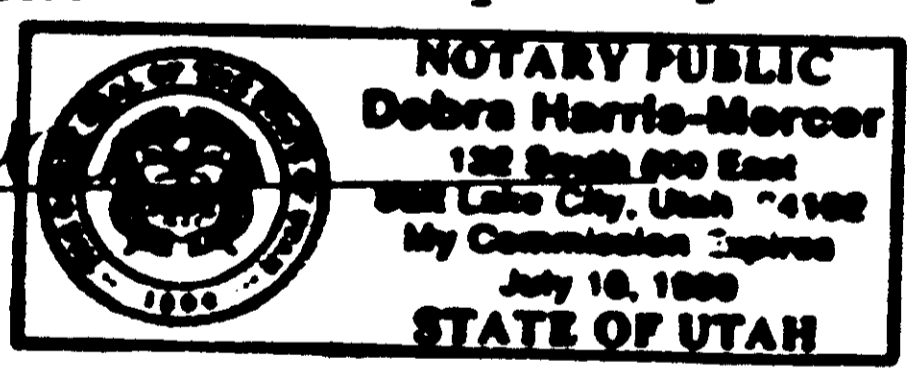
Mark B. Cohen
Mark B. Cohen

Helen Kessler
Helen Kessler

STATE OF UTAH)
COUNTY OF SALT LAKE) ss.

On the 1st day of November 1975 personally appeared before me, Peter S. Cooke, who after having been sworn upon oath, duly acknowledged that he is the President of PSC Development Company, as managing member of Silver Meadows Estates Development, L.C., as a managing member of Silver Meadows Estates, L.C., a Utah limited liability company, and as such has the power to appear on behalf of said corporation, and acting in such capacity executed the foregoing document on the day and year aforementioned.

Debra Harris-Mercer
Notary Public

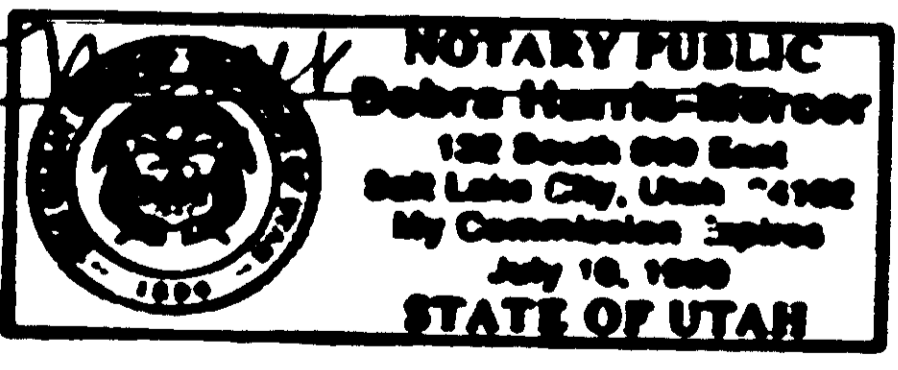


STATE OF UTAH)
COUNTY OF SALT LAKE) ss.

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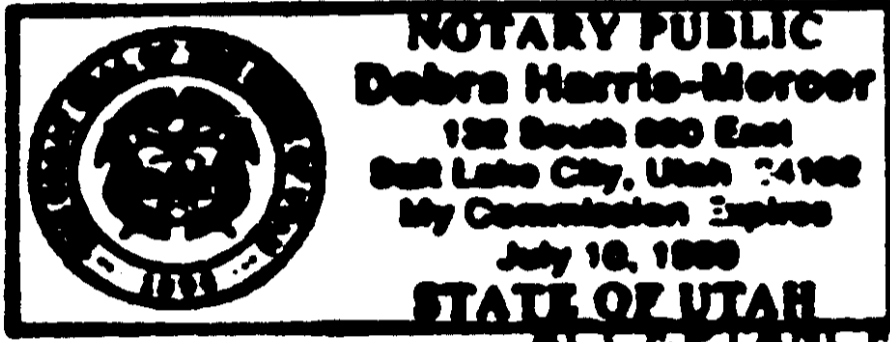
On the 1st day of November 1975 personally appeared before me, Helen Kessler, who after having been sworn upon oath, duly acknowledged that she is the President of Evergreene Management Group and as such has the power to appear on behalf of said corporation, and acting in such capacity executed the foregoing document on the day and year aforementioned.

Debra Harris-Mercer
Notary Public



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

On the 1st day of November 1995 personally appeared before me, Mark B. Cohen, who executed the foregoing document on the day and year aforementioned.



Debra Harris-Mercer
Notary Public

ACCEPTANCE BY THE PARK CITY MUNICIPAL CORPORATION

The foregoing Master Deed Restrictions are hereby adopted and declared by the Park City Municipal Corporation.

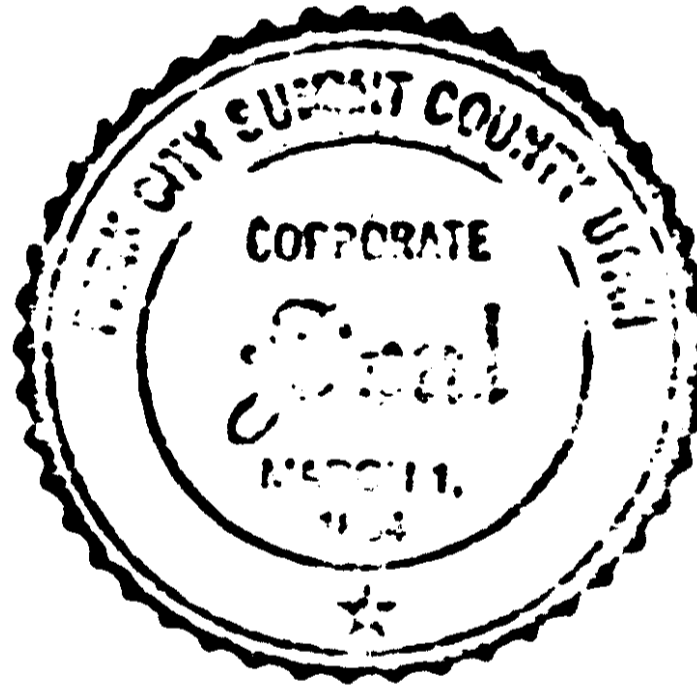
PARK CITY MUNICIPAL CORPORATION

By: John R
Print Name: Toby Ross
Title: City Manager

Approved as to form

Jodi S. Hoffman
JODI S. HOFFMAN, CITY ATTORNEY

Attest:
Anita Sheldon
ANITA SHELDON, CITY RECORDER



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EXHIBIT "A" TO AGREEMENT

Legal Description

All Lots 1 through 49 inclusive, Silver Meadows Estates,
according to the official plat thereof, as recorded in the office
of the Summit County Recorder.

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EXHIBIT "B" TO AGREEMENT

DEED RESTRICTIONS

When Recorded, Return To:

PARK CITY MUNICIPAL CORPORATION
445 Marsac Avenue
P.O. Box 1480
Park City, Utah 84060-1480
Attention: City Manager and City Attorney

UNIT RENTAL, RESALE AND USE DEED RESTRICTION AGREEMENT

THIS UNIT RENTAL, RESALE AND USE DEED RESTRICTION AGREEMENT,
(the "Agreement") is made and entered into this ___ day of
_____, _____, by _____

("Seller"), _____ ("Owner"),
_____ ("Manager") for the
benefit of Park City Municipal Corporation ("City") (Seller,
Buyer, Manager and City are hereinafter individually called the
"Party" and collectively the "Parties"), on the basis of the
following facts:

W I T N E S S E T H

WHEREAS, Seller has or shall transfer to Owner certain real
property and improvements currently consisting of a portion of
Silver Meadows Estates, more accurately described as _____

_____, Park City, Utah, and further described
on Schedule 1 attached hereto and incorporated herein (the
"Unit"); and

WHEREAS, the Unit is subject to that certain Master Deed
Restrictions and Agreement for Silver Meadows Estates dated as of
November 1, 1995, among Silver Meadows Estates, L.C., a Utah
limited liability company, Silver Meadows Estates Development,
L.C., a Utah limited liability company, Evergreene Management
Group, a Utah corporation ("Manager") and City recorded in the
Official Records of Summit County, Utah, as Entry No. __, at Book
____, Page _____ (the "Master Restrictions"); and

WHEREAS, City has agreed to waive certain building and
permit fees and to grant other rights in consideration for the
covenants in this Agreement and all of the documents and
amendments related thereto (collectively, the "Documents").

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A G R E E M E N T

NOW, THEREFORE, in consideration of the covenants set forth herein and other value received, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby represent, covenant and agree as follows:

1 COVENANT TO RESTRICT SALES TO QUALIFIED INDIVIDUALS.

1.1 **GENERAL.** The sale of the Unit shall be limited exclusively to purchasers who meet the definition of "Qualified Individuals" (defined below). In the event that no Qualified Individual is available to purchase a Unit on the terms and conditions in this Agreement, then Owner shall have the right to sell that Unit to a purchaser that is not a Qualified Individual.

1.2 **Deed Restrictions.** Seller hereby assigns to City, and City hereby accepts, all of Seller's rights and interests under this Agreement. Seller shall execute any additional assignment of this Agreement required by the City in the form attached as Exhibit "C" to the Master Restrictions.

1.3 **Invalid Conveyances.** In the event the Unit is sold and/or conveyed without compliance herewith, such sale and/or conveyance shall be wholly null and void and shall confer no title whatsoever upon the purported buyer. Each and every conveyance of the Unit, for all purposes, shall be deemed to include and incorporate by this reference the covenants herein contained, even without reference therein to this Agreement.

2 SALE & OPTION TO PURCHASE.

2.1 **Offer.** In the event that Owner desires to sell the Unit, that selling Owner shall first offer the Unit to City (the "Option") at the "Maximum Sales Price" (defined below) by delivering a written notice of such offer to City. The date that the selling Owner delivers such a notice to City shall be the "Offer Date." The selling Owner shall simultaneously deliver a copy of that notice to Manager.

2.2 **Option to City.** City shall have 45 days after the Offer Date to exercise the Option by delivering to the selling Owner written notice of City's exercise of the Option. City shall use its best efforts to notify the selling Owner of whether City will exercise the Option as early as possible within that 45-day period. If City elects to exercise the Option, City shall finalize the acquisition of the Unit within 30-days after delivering notice of City's election to exercise the Option. If City does not deliver that notice to the selling Owner within that initial 45-day time period or close within 30 days after delivering that notice, City's Option shall automatically expire without the need for further notice or documentation.

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2.3 Sale to Qualified Individual. Upon expiration of the Option, the selling Owner shall have the right, but not the obligation, to sell the Unit to the highest-ranking Qualified Individual on the list of Qualified Individuals (the "List") maintained by Manager. In order to be placed on the List, a Qualified Individual must deliver to Manager written evidence of being adequately pre-qualified for financing the purchase of a Unit. If there is no Qualified Individual on the List, the selling Owner shall have the right to sell the Unit to any other Qualified Individual.

The Qualified Individuals shall be ranked on the List according to the following criteria: (1) the amount of the purchase price that the Qualified Individual is willing and able to pay, which amount shall not exceed the Maximum Sales Price; (2) the speed with which the Qualified Individual is willing and able to close the transaction; and (3) the time that the Qualified Individual applied to be placed on the List with the first applicant receiving more points than the second applicant and so on.

For example, suppose that there are four Qualified Individuals on the List when a Unit comes available for sale: Qualified Individual A will pay \$120,000 and close in 30 days; Qualified Individual B will pay \$115,000 and close in 15 days; Qualified Individual C will pay \$120,000 and close in 60 days; and Qualified Individual D will pay \$120,000 and close in 30 days.

In the initial round of analysis, based upon price, Qualified Individuals A, C and D tie for first place because they all have the same and highest price. Qualified Individual B is no longer considered for the specific Unit in question, but remains on the List for other Units that may become available. In the next round of analysis relative to the remaining Qualified Individuals A, C, and D, Qualified Individuals A and D tie for first place because they each will close in 30 days. Qualified Individual C is no longer considered for the specific Unit in question, but remains on the List for other Units that may become available. In the final round of analysis relative to the remaining Qualified Individuals A and D, Qualified Individual A is given first place because Qualified Individual A was placed on the List before Qualified Individual D. Qualified Individual D is no longer considered for the specific Unit in question, but remains on the List for other Units that may become available.

2.4 Sale to Non-Qualified Individual. If, after using best efforts to sell the Unit to a Qualified Individual, a Qualified Individual does not purchase the Unit within 120 days following the Offer Date, the selling Owner shall have the right to sell the Unit to any buyer that is eligible under applicable laws at the Maximum Sales Price or below.

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2.5 List. Manager shall maintain at Manager's office the List which shall record the Qualified Individuals in the order of the dates on which they applied to be placed on the List. The List shall be available for review by City, the public and Owner during regular business hours. Commencing January 1, 1996, Manager shall deliver an updated copy of the List to City on a quarterly basis and upon any other request of the City. Manager shall notify City in writing at any time that there are fewer than 24 Qualified Individuals on the List.

2.6 Miscellaneous. Notwithstanding anything in the Documents to the contrary, City shall not exercise the Option in connection with any rental of any Unit for a term of less than 2 years. Nothing in this Agreement shall be interpreted to force a selling Owner to sell a Unit against that selling Owner's will. The selling Owner shall have the right to list a Unit for sale at or below the Maximum Sales Price with any licensed broker. The selling Owner shall have the right to obtain back-up offers to purchase a Unit so long as those back-up offers are conditioned upon satisfaction of the other rights and obligations of the Parties under this Agreement.

3 MAXIMUM SALES PRICE. In no event shall the Unit be sold for an amount in excess of the "Maximum Sales Price" which shall constitute \$120,000, or the purchase price, whichever is less, plus an increase of three percent of such price per year from the date of purchase to the date of Owner's notice to City of Owner's intent to sell (prorated at the rate of 0.25 percent for each whole month for any part of a year).

3.1 Breach Freezes Appreciation. Upon the occurrence of an "Event of Default" (defined below), the Maximum Sales Price of the Unit in default shall, upon the date of such breach as determined by City, automatically cease to increase as set out in this Agreement for the Unit in default, and shall remain fixed until the date such Event of Default is cured.

3.2 No Guaranty. NOTHING HEREIN SHALL BE CONSTRUED TO CONSTITUTE A REPRESENTATION OR GUARANTY BY CITY THAT ON SALE OWNER SHALL OBTAIN THE MAXIMUM SALES PRICE.

3.3 Permitted Capital Improvements 0441895 Bx00922 Pg00251

3.3.1 General. For the purpose of determining the Maximum Sales Price, Owner may add to the amount specified in Paragraph 3 above, the cost of Permitted Capital Improvements (as defined in Schedule "2") in a total amount not to exceed \$12,000 (as increased by the "Consumer Price Index" [defined in Section 4.2 below] each year). In calculating such amount, only those Permitted Capital Improvements identified in Schedule "2" hereto shall qualify for inclusion. All such Permitted Capital Improvements installed or constructed over the life of the Unit shall qualify. However, the allowance permitted by this Paragraph is a fixed amount, which shall be calculated on a

cumulative basis applicable to Owner and all subsequent purchasers, and shall not exceed the maximum dollar amount set forth in this Paragraph.

3.3.2 Exclusions. Permitted Capital Improvements shall not include any changes or additions to the Unit made by Owner during construction or thereafter, except in accordance with Paragraph 3.3.1 above. Permitted Capital Improvements shall be included in City's listed purchase price, even if made or installed during original construction.

3.3.3 Qualification. In order to qualify an improvement as a Permitted Capital Improvement, Owner must furnish to City the following information with respect to the improvements which Owner seeks to include in the calculation of Maximum Sales Price:

3.3.3.1 Original or duplicate receipts to verify the actual costs expended by Owner for the Permitted Capital Improvements;

3.3.3.2 Owner's affidavit verifying that the receipts are valid and correct receipts tendered at the time of purchase; and

3.3.3.3 True and correct copies of any building permit or certificate of occupancy requires to be issued by the Park City Building Department with respect to the Permitted Capital Improvements.

3.3.4 Out-Of-Pocket Costs. In calculating the costs under Paragraph 3.3.1 through 3.3.3, only the Owner's actual out-of-pocket costs and expenses shall be eligible for inclusion. Such amount shall not include an amount attributable to Owner's profit, "sweat equity", or to any appreciation in the value of the improvements.

3.4 Inducements to Sell Prohibited. Owner shall not permit any prospective buyer to assume any or all of Owner's customary closing costs nor accept any other consideration which would cause an increase in Owner's return on the sale so as to induce Owner to sell to such prospective buyer.

4 RENTAL.

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4.1 Rental Rates. Rental rates and components (including homeowner association fees and other non-discretionary charges but excepting utilities and actual costs of cable television to the Unit) for the Unit (regardless of whether the Unit has 2 or 3 bedrooms) shall not exceed the rate of \$825 per month adjusted on January 1 of each year by the Consumer Price Index using a base year of 1995. Except in the event that Owner uses best efforts to rent to a Qualified Individual and no Qualified Individual is available as contemplated in Section 4.3, any rents paid by tenants that are not Qualified Individuals

shall be placed into an escrow approved by City pending determination of the disposition of those rents in accordance with applicable laws. Qualified Individual tenants are intended to be third party beneficiaries of this Section 4.1.

4.2 Consumer Price Index. The "Consumer Price Index" shall mean the increase that is the greater of the Department of Labor and Commerce, Bureau of Labor Statistics Consumer Price Index, All Urban for the Salt Lake Metropolitan areas or, if available, for the Department of Labor and Commerce, Bureau of Labor Statistics Consumer Price Index, All Urban, for Summit County, Utah (the "Consumer Price Index"). The Consumer Price Index shall be deemed to have a base year of 1995.

4.3 Qualified Individuals. To the extent that Owner rents the Unit, Owner shall utilize reasonable efforts, including giving City and Manager reasonable written notice of vacancies, to give preference to Qualified Individuals whenever possible, so long as (1) the Qualified Individuals meet all the standard income, background, employment and other tenant checks, as uniformly and fairly applied to all prospective or renewal tenants; and (2) giving such priority does not violate any applicable laws. Owner will not knowingly allow any tenant to sublease, assign or otherwise convey any interest in any lease to a person that is not a Qualified Individual until after best efforts have been used to lease to a Qualified Individual. In the event that Owner uses best efforts to rent to a Qualified Individual and no Qualified Individual is available, Owner shall have the right to rent to any other tenant that is eligible under applicable laws.

"Qualified Individuals" means individuals (whether or not related) and families who have either been (i) a resident of City for the prior 24 months; (ii) a full-time regular employee, of the Park City School District, Park City Fire District, Snyderville Basin Sewer Improvement District, or Park City Municipal Corporation; (iii) a full-time regular employee (with a minimum of 30 hours of employment per week) of a business or businesses within City limits; and (iv) an owner or owner's representative of a business within City limits.

4.4 Compliance and Non-Discrimination. At all times, Owner shall comply with applicable federal and state housing laws, shall not discriminate against any tenant on the basis of race, sex, creed, sexual orientation, or color, and shall operate and manage the Unit in a consistent and uniform manner. This Agreement is not intended to confer rights on third parties, nor to conflict in any manner with applicable laws.

4.5 Records. Owner shall prepare and keep on file for review by City all records required to be maintained by either the Utah Housing Finance Agency and/or the Internal Revenue Service pertaining to the rent restrictions and other occupancy covenants herein. Owner shall deliver to City at least annually, and as otherwise reasonably requested by City, periodic reports

and certifications respecting the ownership and occupancy of the Unit owned by Owner.

4.6 Sharing Occupancy. The requirements of this Agreement shall not preclude owner from sharing occupancy of a Unit with non-owners on a rental basis. Owner shall require all tenants and occupants to abide by this Agreement.

4.7 Miscellaneous. Owner shall not rent a Unit for nightly rental.

5 SECURED OBLIGATIONS.

5.1 Definitions. The "Secured Obligations" shall mean only the following encumbrances and only to the extent that the aggregate amount of such debt does not exceed 95 percent of the Maximum Sales Price for the Unit encumbered: (a) all purchase money financing for each Unit; and (b) all advances, refinances, modifications, extensions, assignments, conveyances, encumbrances, syndications and other transfers of any of the foregoing. The holder of the Secured Obligations or its successor or assign is hereinafter called the "Secured Obligation Holder."

5.2 Priority. The Documents are hereby and shall be senior in priority to any Secured Obligation in place as of the date that this Agreement is recorded against the Unit. Notwithstanding anything in this Agreement to the contrary, City shall not take any actions or exercise any remedies under this Agreement, at law, in equity or otherwise without the prior written consent of the Secured Obligation Holder to the extent that such actions or remedies shall have a material adverse impact upon the security, equity position and/or other material rights of the Secured Obligation Holder as determined by the Secured Obligation Holder in its sole discretion. Secured Obligation Holder acknowledges by its subordination and/or its future advances, City's valid and continuing interest in maintaining the ownership and occupancy criteria of all Units.

5.3 Cross-Default. Any uncured default under the Secured Obligation documents shall constitute an "Event of Default" (defined below) under this Agreement. A breach of the Secured Obligation documents by Owner (the "Debt Defaulting Owner") or Unit (the "Debt Defaulting Unit") shall not constitute a breach by any other owner of any other unit in Silver Meadows Estates.

5.4 City's Notice and Rights. ^{00441895 Bx00922 Pg00254} This Agreement shall constitute a request for notice recorded in the Official Records of Summit County entitling the City to receive statutory notices of any default on a Debt Defaulting Unit. City shall have the right to record a separate request for statutory notices.

The Debt Defaulting Owner must notify City, in writing, of any notice of past due payments or default in payment or other

obligations due or to be performed under any debt secured by the Debt Defaulting Unit within five calendar days following the Debt Defaulting Owner's receipt of such notice of default. Upon City's receipt of such notice of default and if such default is not cured within the time periods contemplated under the applicable documents, City shall have the right, but not the obligation, to take and/or require the following actions:

5.4.1 Loan Services. City may offer loan counseling or distressed loan services to the Debt Defaulting Owner, if any of these services are available.

5.4.2 City Cure and Lien. City shall have the right, in its sole discretion, to cure the default or any portion thereof. In such event, the Debt Defaulting Owner shall be personally liable to City, and hereby authorizes City to lien the Debt Defaulting Unit, for past due payments made by City together with interest thereon at the rate of one percent per month and all actual expenses of City reasonably incurred in curing the default. At City's request, the Debt Defaulting Owner shall execute a promissory note and deed of trust encumbering the Debt Defaulting Unit in favor of the City for the above amounts expended by City, including security for future advances made for such purposes. Any such note or deed or trust shall be subject to this Agreement and subordinate to the Secured Obligations. The Debt Defaulting Owner may cure the default and satisfy its obligation to City under this Paragraph at any time prior to a sale to a Qualified Individual. Otherwise, City may record a lien on the Debt Defaulting Unit to evidence such indebtedness, which together with interest thereon, which may be foreclosed in the same manner as any other deed of trust subject to the consent of the Secured Obligation Holder.

5.4.3 Purchase Option. With the consent of the Secured Obligation Holder, City may exercise the Option in Section 2 above. The date on which City receives notice of a default under Section 5.4 shall constitute the Offer Date.

5.4.4 Mandatory Sale. With the consent of the Secured Obligation Holder, City may require the Debt Defaulting Owner to offer to sell the Debt Defaulting Unit to a Qualified Individual to avoid the commencement or completion of any foreclosure proceeding against the Debt Defaulting Unit. Any buyer of the Debt Defaulting Unit shall take ownership of that Unit subject to the Secured Obligations. In the event the Debt Defaulting Owner fails to cure the default in question within the time period afforded by the Secured Obligation documents and City reasonably determines that sale of the Debt Defaulting Unit is necessary, City shall so inform the Debt Defaulting Owner in writing.

6 NO ADDITIONAL DENSITY. In no event shall Owner create an additional dwelling unit, as defined in the Park City Land Management Code, in or on the Unit.

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7 **NO CITY GUARANTY.** Nothing herein shall be construed to require City to protect or indemnify Owner against any losses attributable to the rental, including (not by way of limitation) non-payment of rent or damage to the Unit; nor to require City to obtain a Qualified Individual for Owner in the event that none is found by Owner.

8 **REPAIR AND MAINTENANCE.** Owner covenants, agrees and warrants that the Unit is and will remain in good condition and fit and suitable for occupancy. Owner shall cause the Unit to be maintained and operated, in a first-class fashion, at all times, in strict compliance with the terms of this Agreement, the covenants, conditions and restrictions associated with the Unit and other applicable laws including City building and zoning codes. If the Unit, or part thereof, shall be damaged or destroyed, Owner will use its best efforts to repair and restore the Unit to substantially the same condition as existed prior to the event causing such damage or destruction and thereafter to operate the Unit in accordance with the terms of this Agreement.

9 **TERM OF AGREEMENT.** The term of this Agreement shall commence as of the date first set forth above and shall continue in full force and effect in perpetuity. In the event that for any reason the term of this Agreement shall not continue in perpetuity, the term shall continue in full force and effect until the date that corresponds to the life in being of the last surviving student of the graduating class of McPolin Elementary School, Park City, Utah, in the year first set forth above plus 21 years. Owner hereby waives any defenses, rights or remedies that it might otherwise assert against City in connection with the following:

9.1 The application of the rule against perpetuities to the Documents; Owner agrees that the Documents shall be enforceable against Owner notwithstanding any application of the rule against perpetuities;

9.2 Any claim that the covenants in the Documents recorded against the Unit are not real covenants running with the land; and

9.3 Any claim that the covenants in the Documents recorded against the Unit are not at least equitable servitudes intended to run with the land.

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This waiver shall be binding upon and inure to the benefit of the successors and assigns of Owner and the City.

10 **RIGHT TO INSPECT.** In the event that City has reasonable cause to believe Owner is violating the provisions of the Documents, City, by its authorized representative, may inspect the Unit between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, after providing Owner with no less than 24-hours' prior written notice. Nothing in this Agreement shall limit City's police powers.

11 **DEFAULT.**

11.1 **Event of Default.** An "Event of Default" shall occur under the Documents where a Party fails to perform any of its obligations under the documents within 30 days following that defaulting Party's receipt of notice of such default. Notwithstanding the foregoing, if the default cannot be reasonably cured within the 30-day period, the defaulting Party shall not be in default so long as the defaulting Party commences to cure the default within that 30-day period and diligently continues such cure with good faith until complete.

11.2 **Defaulting Owner and Unit.** The Owner who is threatening to commit or actually commits an Event of Default is herein called a "Defaulting Owner." The Unit owned by the Defaulting Owner is herein called the "Defaulting Unit."

12 **REMEDIES.** Subject to the provisions of Section 12.6 below, upon the occurrence of an Event of Default the non-defaulting Party may exercise all rights and remedies available at law and in equity. Those rights and remedies shall be cumulative. All costs, including attorney's fees, incurred by the non-defaulting Party in exercising its remedies shall be an additional award to the non-defaulting Party. Furthermore, upon the occurrence of an Event of Default by the Defaulting Owner, and subject to the provisions of Section 12.6 below, City may resort to any or all of the following remedies to enforce against the Unit, or cause the Defaulting Owner to comply with, the covenants and restrictions herein: (i) monetary damages; (ii) punitive damages; and (iii) the following additional remedies:

12.1 **Substitute Performance.** If the Defaulting Owner defaults under any obligation associated with the Defaulting Unit, City shall have the right to perform that obligation on behalf of the Defaulting Owner. The Defaulting Owner shall reimburse City for any costs incurred by City in performing such obligations. If the Defaulting Owner fails to reimburse City for those costs, City shall have the right to place a lien on the Defaulting Unit for the amount of such reimbursement and associated damages. Subject to the consent of the Secured Obligation Holder, City may execute on any judgement and foreclose on any lien against the Defaulting Unit or Defaulting Owner.

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12.2 **Power of Reverter; Revocation of Unauthorized Conveyance; Power of Sale and Unlawful Detainer.** Subject to the prior written consent of the Secured Obligation Holder, if the Defaulting Unit has been sold, assigned or leased to a buyer, assignee, lessee or other transferee in violation of this Agreement (an "Unauthorized Conveyance") City may revoke that Unauthorized Conveyance by exercising the power of reverter and sale, eviction or other lawful means and take possession and ownership of the Defaulting Unit by delivering to the Defaulting Owner a written declaration of default and demand for reverter, sale, eviction or otherwise. Subject to the consent of the

Secured Obligation Holder, City shall have the right to sell the Defaulting Unit (if the Unauthorized Conveyance was a sale) or evict a tenant (if the Unauthorized Conveyance was a lease) in accordance with applicable laws governing deeds of trust with powers of reverter, sale and/or unlawful detainer. Subject to the consent of the Secured Obligation Holder, City shall have the right to act as its own trustee or to appoint an independent trustee to process the foreclosure, reverter, sale and/or unlawful detainer. Subject to the consent of the Secured Obligation Holder, City shall have the right to appoint a receiver for the purpose of renting the Defaulting Unit to a Qualified Individual pending the sale of the Defaulting Unit on the other terms hereunder.

12.3 **Injunctive Relief.** City shall be entitled to specific performance of, and injunctive and other equitable relief against, the Defaulting Owner.

12.4 **Lien.** City shall be entitled to place a lien and security interest upon all of the Defaulting Owner's right, title and interest in and to the Defaulting Unit subject to this Agreement and subordinate to the Secured Obligations. With the consent of the Secured Obligation Holder, City may exercise all rights and remedies available at law and in equity relative to that lien including the right to foreclose upon that lien.

12.5 **Other.** Subject to the consent of the Secured Obligation Holder, City shall be entitled to enforce performance of any obligations secured hereby and to exercise all rights and powers under the Documents or any laws now or hereafter in force, notwithstanding that some or all of said obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Subject to the limitations in the Documents and the consent of the Secured Obligation Holder, neither the acceptance of this Agreement nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect City's right to realize upon or enforce any other security now or hereafter held by City, it being agreed that City shall be entitled to enforce this Agreement and any other security now or hereafter held by City in such order and manner as City may, in its absolute discretion, determine. No remedy conferred upon or reserved to City by the Documents is intended to be exclusive of any other remedy, but each shall be cumulative and shall be in addition to every other remedy given by the Documents or now or hereafter existing at law, in equity or by statute. Every power or remedy given by the Documents to City or to which City may be otherwise entitled may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by City; and City may pursue inconsistent remedies.

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12.6 **Consent of Secured Obligation Holder.** Notwithstanding anything in the Documents to the contrary, City shall not exercise any rights or remedies or take any other

actions under any Documents (including execution on any judgement against the Defaulting Owner or the Defaulting Unit) without the consent of the Secured Obligation Holder to the extent that the exercise of those rights, remedies or actions may have a material adverse impact upon the security, equity position and/or other material rights of the Secured Obligation Holder. The Secured Obligation Holder shall consent to actions by City under this Agreement so long as (a) City covenants in writing to pay or assume all amounts due under the Secured Obligations as limited by Section 5.1 above and the rights of the Secured Obligation Holder, (b) no action has been filed by or against City for insolvency, bankruptcy or reorganization for financial insolvency purposes and (c) those actions do not have a material adverse impact upon the security, equity position and/or other material rights of the Secured Obligation Holder.

12.7 Rights of Interested Parties to Cure. At the time that City sends any notice of default to the Defaulting Owner hereunder, City shall send a written copy of that same notice to (a) the Secured Obligation Holder encumbering the Unit, (b) Manager and (c) the Silver Meadows Estates Homeowners Association (the "Association") (Secured Obligation Holder, Manager and Association are hereinafter collectively, the "Interested Parties"), at the addresses that the Interested Parties shall supply to City from time to time or as recorded in the official records of Summit County, Utah. Each Interested Party shall give City written notice of any change in its address. Subject to the consent of the Secured Obligation Holder, the Interested Parties shall have the right, but not the obligation, to cure any default indicated in such notice within the same time period as granted to the Defaulting Owner hereunder, which time period shall commence for each Interested Party as of the date that such Interested Party receives notice of the default in question. City shall not exercise any remedies under the Documents until after the Interested Parties have failed to cure the default in question within the applicable time period. Nevertheless, subject to the consent of the Secured Obligation Holder, City shall have the right to take the actions necessary to preserve its rights and remedies pending any cure by the Interested Parties contemplated herein. Nothing in this provision shall be deemed to create any obligation on the part to the Interested Parties to cure any default hereunder.

13 LIMITATIONS ON LIABILITY.

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13.1 Discontinuance of Liability Following Conveyance. Following the recording of a warranty deed conveying the Unit to a purchaser authorized under the Documents, the transferor of the Unit shall have no further liability under the Documents respecting the Unit, except to the extent caused by the negligence or intentional misconduct of that transferor.

13.2 Severable Obligations and Liabilities. The Parties understand that many of the units in the Association surrounding the Unit will eventually be owned by different

individuals and entities. The owner of a particular unit, and that unit itself, shall not be liable for, or encumbered by, the obligations or liabilities under the Documents associated with any other unit or owner of any other unit.

14 **NOTICES.** Any notice, consent or approval which is required herein shall be in writing and given by mailing the same, certified mail, return receipt requested, properly addressed and with postage fully prepaid, to any address provided herein or to any subsequent mailing address of the Party as long as prior written notice of the change of address has been given to the other Parties.

Any notice by any Party shall also be delivered simultaneously to Association. Said notices, consents and approvals shall be sent to the Parties at the following addresses unless notified in writing:

To Owner: At the Unit

To City: City Manager and City Attorney
Park City Municipal Corporation
P.O. Box 1480
Park City, Utah 81611

To Association: Silver Meadows Estates Homeowners
Association
132 South 600 East
Salt Lake City, Utah 84102

To Manager: Evergreene Management Group
132 South 600 East
Salt Lake City, Utah 84102

The Parties shall promptly deliver to each other written notice of any change in their respective addresses.

15 **EXHIBITS.** All exhibits attached hereto are incorporated herein and by this reference made a part hereof.

16 **SEVERABILITY.** Whenever possible, each provision of the Documents shall be interpreted in such a manner as to be valid under applicable law; but if any provision of any of the foregoing shall be invalid or prohibited under said applicable law, such provisions shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provisions of such Document.

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17 **ATTORNEYS' FEES.** If any Party shall take or defend against any action for any relief against another Party arising out of the Documents, the prevailing Party in such action or defense shall be entitled to be reimbursed by the losing Party for all costs including, but not limited to, attorneys' fees and court costs, incurred by the prevailing Party in such action or defense and/or enforcing any judgement granted therein, all of

which costs shall be deemed to have accrued upon the commencement of such action and/or defense and shall be paid whether or not such action or defense is prosecuted to judgement. Any judgement or order entered in such action or defense shall contain a specific provision providing for the recovery of attorneys' fees and costs incurred in enforcing such judgement. For the purposes of this section, attorneys' fees shall include, without limitation, fees incurred in the following: (1) post-judgement motions; (2) contempt proceedings; (3) garnishment, levy, and debtor and third-party examinations; (4) discovery; and (5) bankruptcy litigation.

Attorneys' fees incurred in enforcing any judgement in a legal action pursuant to this Paragraph are recoverable as a separate item. This entitlement to post-judgement attorneys' fees is intended to be severable from the other provisions of this document, and to survive any judgement, and is not deemed merged into the judgement.

18 CONSENTS. No consent, approval or authorization under the Documents shall be unreasonably withheld, conditioned or delayed. Any consent, approval or authorization under the Documents shall be requested and given or withheld in advance and in writing within 10 days following delivery of such request. If a written disapproval of that request is not delivered to the requesting party within that time period, the request shall be deemed to be approved.

19 CHOICE OF LAW. The Documents shall be governed and construed in accordance with the laws of the State of Utah.

20 SUCCESSORS. Except as otherwise provided herein, the provisions and covenants contained herein shall inure to and be binding upon the heirs, successors and assigns of the Parties.

21 PARAGRAPH HEADINGS. Paragraph or section headings within the Documents are inserted solely for convenience of reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

22 WAIVER. No claim of waiver, consent or acquiescence with respect to any provision of the Documents shall be valid against any Party hereto except on the basis of a written instrument executed by the Parties. However, the Party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.

23 GENDER AND NUMBER. Whenever the context so requires herein, the neuter and gender shall include any or all genders and vice versa and the use of the singular shall include the plural and vice versa.

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24 MODIFICATIONS. The Parties agree that any modifications of the Documents shall be effective only when made

by writings signed by the Parties and recorded with the Clerk and Recorder of Summit County, Utah, if the Documents being amended have been so recorded.

25 RECORDING AND FILING; COVENANTS TO RUN WITH THE LAND.

25.1 Recordation. Upon execution and delivery by Owner and City, Owner shall cause this Agreement to be recorded and filed in the official public land deed records of Summit County, Utah, and shall pay all fees and charges incurred in connection therewith.

25.2 Covenants Run With Land. Owner intends, declares and covenants, on behalf of itself and all future owners and operators of the Unit, that this Agreement and the covenants, restrictions and equitable servitudes set forth in this Agreement regulating and restricting the rents, use, occupancy and transfer of the Unit (a) shall be and are covenants running with the land and improvements, and encumbering the Unit for the term of this Agreement, binding upon Owner, its grantees, successors and assigns and the grantees and successors and assigns of them, or any of them, (b) are not merely personal covenants of Owner or City, (c) shall bind Owner (and the benefits shall inure to City) and their respective successors and assigns, and (d) are intended to run with the land and improvements associated with the Unit and be equitable servitudes.

26 OWNER AND SUCCESSORS. The term "Owner" shall mean the person or persons who shall acquire an ownership interest in the Unit in compliance with the terms and provisions of the Documents; it being understood that such person or persons shall be deemed an "Owner" herein only during the period of his, her, their or its ownership interest in the Unit and shall be obligated herein for the full and complete performance and observance of all covenants, conditions and restrictions contained herein during such period.

27 INTEGRATION. The Documents and exhibits thereto constitute the entire agreement between the Parties with respect to the matters set forth herein.

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IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the Effective Date.

SELLER:

Silver Meadows Estates, L.C.,
a Utah limited liability company

By: Silver Meadows Estates Development, L.C.,
a Utah limited liability company

By: PSC Development Company,
a Utah corporation, Managing Member

By: _____
Peter S. Cooke, President

OWNER

By: _____
Print Name: _____

MANAGER

Evergreene Management Group,
a Utah corporation

By: _____
Helen Kessler, President

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

On the _____ day of _____, personally appeared before me, Peter S. Cooke, who after having been sworn upon oath, duly acknowledged that he is the President of PSC Development Company, as managing member of Silver Meadows Estates Development, L.C., as a managing member of Silver Meadows Estates, L.C., a Utah limited liability company, and as such has the power to appear on behalf of said corporation, and acting in such capacity executed the foregoing document on the day and year aforementioned.

Notary Public

00441895 Bx00922 Ps00263

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

On the _____ day of _____, personally
appeared before me, _____, who after having been
sworn upon oath, duly acknowledged that he/she executed the
foregoing document on the day and year aforementioned.

Notary Public

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

On the _____ day of _____, personally
appeared before me, Helen Kessler, who after having been sworn
upon oath, duly acknowledged that she is the President of
Evergreene Management Group and as such has the power to appear
on behalf of said corporation, and acting in such capacity
executed the foregoing document on the day and year
aforementioned.

Notary Public

ACCEPTANCE BY THE PARK CITY MUNICIPAL CORPORATION

The foregoing Master Deed Restrictions are hereby adopted
and declared by the Park City Municipal Corporation.

PARK CITY MUNICIPAL CORPORATION

By: _____
Print Name: _____
Title: _____

Approved as to form

JODI S. HOFFMAN, CITY ATTORNEY

Attest:

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ANITA SHELDON, CITY RECORDER

SCHEDULE "1" TO DEED RESTRICTIONS

DESCRIPTION OF UNIT

0044 1895 Bx00922 Pa00265

SCHEDULE "2" TO DEED RESTRICTIONS

PERMITTED CAPITAL IMPROVEMENTS

1. The term "Permitted Capital Improvements" as used in the Agreement shall only include the following:

- a. Improvements or fixtures erected, installed or attached as permanent, functional, non-decorative improvements to real property, excluding repair, replacement and/or maintenance improvements;
- b. Improvements for energy and water conservation;
- c. Improvements for the benefit of seniors and/or handicapped persons;
- d. Improvements for health and safety protection devices;
- e. Improvements to add and/or finish permanent/fixed storage space;
- f. Improvements to finish unfinished space;
- g. The cost of adding decks and balconies, and any extensions thereto;
- h. Improvements that add or finish living space; and/or
- i. Improvements constructed or installed as a result of any requirement imposed by any government agency.

2. Permitted Capital Improvements as used in this Agreement shall not include the following:

- a. Landscaping;
- b. Upgrades of appliances, plumbing and mechanical fixtures, carpets, and other similar items included as part of the original construction of the Unit;
- c. Jacuzzis, saunas, steam showers and other similar items;
- d. Improvements required to repair, replace and maintain existing fixtures, appliances, plumbing and other mechanical fixtures, painting, carpeting and other similar items;
- e. Upgrades or additions of decorative items, including lights, window coverings, and other similar items.

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3. All Permitted Capital Improvement items and costs shall be approved by City staff prior to being added to the Maximum Resale Price as defined herein.

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**EXHIBIT "C" TO AGREEMENT
ASSIGNMENT OF DEED RESTRICTIONS**

THE UNDERSIGNED ("Seller") hereby assigns, transfers and conveys to Park City Municipal Corporation ("City") all of Seller's right, title and interest to, and power of reverter associated with, that certain Unit Rental, Resale and Use Deed Restriction Agreement (the "Deed Restrictions") dated _____ between Seller and _____, as "Owner." City shall have the right, but not the obligation, to enforce the terms of those Deed Restrictions against Owner and the "Unit" (as defined in those Deed Restrictions).

"Seller"

ACCEPTANCE BY THE PARK CITY MUNICIPAL CORPORATION

The foregoing Assignment of Deed Restrictions is hereby accepted, adopted and declared by The Park City Municipal Corporation.

PARK CITY MUNICIPAL CORPORATION

By: _____
Print Name: _____
Title: _____

Approved as to form

_____, CITY ATTORNEY

Attest:

0044 1895 Bx00922 Ps00268

_____, CITY RECORDER

EXHIBIT "D" TO AGREEMENT
PERMITTED CAPITAL IMPROVEMENTS

1. The term "Permitted Capital Improvements" as used in the Agreement shall only include the following:
 - a. Improvements or fixtures erected, installed or attached as permanent, functional, non-decorative improvements to real property, excluding repair, replacement and/or maintenance improvements;
 - b. Improvements for energy and water conservation;
 - c. Improvements for the benefit of seniors and/or handicapped persons;
 - d. Improvements for health and safety protection devices;
 - e. Improvements to add and/or finish permanent/finished storage space;
 - f. Improvements to finish unfinished space;
 - g. The cost of adding decks and balconies, and any extensions thereto;
 - h. Improvements that add or finish living space; and/or
 - i. Improvements constructed or installed as a result of any requirement imposed by any government agency.
2. Permitted Capital Improvements as used in this Agreement shall not include the following:
 - a. Landscaping;
 - b. Upgrades of appliances, plumbing and mechanical fixtures, carpets, and other similar items included as part of the original construction of the Unit;
 - c. Jacuzzis, saunas, steam showers and other similar items;
 - d. Improvements required to repair, replace and maintain existing fixtures, appliances, plumbing and other mechanical fixtures, painting, carpeting and other similar items;
 - e. Upgrades or additions of decorative items, including lights, window coverings, and other similar

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items.

3. All Permitted Capital Improvement items and costs shall be approved by City staff prior to being added to the Maximum Resale Price as defined herein.

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EXHIBIT "E" TO AGREEMENT

SUBORDINATION AGREEMENT

Recording Requested By And
When Recorded Return to:

PARK CITY MUNICIPAL CORPORATION
445 Marsac Avenue
P.O. Box 1480
Park City, Utah 84060-1480
Attention: City Manager and City Attorney

**SUBORDINATION AGREEMENT
(ZIONS FIRST NATIONAL BANK)**

THIS SUBORDINATION AGREEMENT (the "Agreement") is entered into and effective as of November 1, 1995 (the "Effective Date"), by ZIONS FIRST NATIONAL BANK, a national banking association ("Bank"), for the benefit of PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation ("City"), on the basis of the following facts:

R E C I T A L S

A. The Bank is the beneficiary under certain encumbrances recorded against that certain real property and improvements located on Kearns Boulevard, Park City, Utah as further described on Attachment 1 hereto and incorporated herein (the "Property").

B. Bank's encumbrances consist of the following encumbrances set forth on Attachment 2 hereto (collectively, the "Bank's Encumbrances").

C. City intends to enter into that certain MASTER DEED RESTRICTIONS AND AGREEMENT FOR SILVER MEADOWS ESTATES dated as of November 1, 1995, with Silver Meadows Estates, L.C., a Utah limited liability company, Silver Meadows Estates Development, L.C., a Utah limited liability company, and Evergreene Management Group, a Utah corporation (the "Master Deed Restrictions"). The Master Deed Restrictions establish certain restrictions on the use of the Property which run with the title to the Property.

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SUBORDINATION

For good and valuable consideration which the parties hereto acknowledge to have received, the Bank agrees to hereby subordinate the Bank's Encumbrances to the Master Deed Restrictions on the conditions set forth therein.

ZIONS FIRST NATIONAL BANK,
a national banking association

By: _____
Print Name: _____
Title: _____

STATE OF UTAH)
) ss
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this ____ day of _____, 1995, by _____ as the _____ of Zions First National Bank.

NOTARY PUBLIC
Residing at: _____

My Commission Expires:

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ATTACHMENT 1 TO SUBORDINATION AGREEMENT

DESCRIPTION OF PROPERTY

All Lots 1 through 49 inclusive, Silver Meadows Estates,
according to the official plat thereof, as recorded in the office
of the Summit County Recorder.

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ATTACHMENT 2 TO SUBORDINATION AGREEMENT

DESCRIPTION OF ENCUMBRANCES

1. DEED OF TRUST:

Trustor: SILVER MEADOWS ESTATES, L.C., a Utah limited liability company
Trustee: ZIONS FIRST NATIONAL BANK, a national banking association
Beneficiary: ZIONS FIRST NATIONAL BANK, a national banking association
Amount: \$3,835,000.00, plus interest
Dated: September 29, 1994
Recorded: September 30, 1994
Entry No.: 416100
Book/Page: 840/494

2. LOAN MODIFICATION AGREEMENT:

Dated: October 20, 1994
Recorded: October 31, 1994
Entry No.: 418117
Book/Page: 847/85

3. UCC FINANCING STATEMENT:

Debtor: SILVER MEADOWS ESTATES, L.C.
Creditor: ZIONS FIRST NATIONAL BANK
For: Additional Collateral
Recorded: September 30, 1994
Entry No.: 416101
Book/Page: 840/520

4. AMENDMENT TO UCC FINANCING STATEMENT:

Recorded: October 31, 1994
Entry No.: 418118
Book/Page: 847/95

5. ASSIGNMENT OF RENTS, ISSUES, PROFITS AND OTHER MONIES ACCRUING FROM SAID LAND TO SECURE AN INDEBTEDNESS:

Executed by: SILVER MEADOWS ESTATES, L.C., a Utah limited liability company
Assignee: ZIONS FIRST NATIONAL BANK, a national banking association
Amount: \$3,835,000.00
Dated: September 29, 1994
Recorded: September 30, 1995
Entry No.: 416102
Book/Page: 840/530

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