

AFTER RECORDING PLEASE RETURN TO:

Charles L. Maak  
Martineau & Maak  
1800 Beneficial Life Tower  
36 South State Street  
Salt Lake City, Utah 84111

Except

504

DECLARATION  
OF  
PROTECTIVE COVENANTS AND RESTRICTIONS

THIS DECLARATION is made and executed as of December 7, 1976 by TOTAL CONCEPT DEVELOPMENT CORPORATION, a Utah corporation whose address is 115 South Main Street, Salt Lake City, Utah 84111, and PRUDENTIAL SERVICE CORPORATION, a Utah corporation whose address is 115 South Main Street, Salt Lake City, Utah 84111 (both of which are hereinafter collectively referred to as "Declarants").

RECITALS:

A. Declarants, or one of them, are currently the developers of certain real property situated in Sweetwater County, State of Wyoming, and anticipate that in the future they, or one of them, will be the developers of certain additional real property situated in said County and State. The real property currently being developed and/or anticipated to be developed in the future by Declarants, or one of them, includes the Parcel hereinafter described and certain real property situated in the vicinity of said Parcel, including portions or all of the "Entire Tract" referred to and identified in the Master Declaration hereinafter identified.

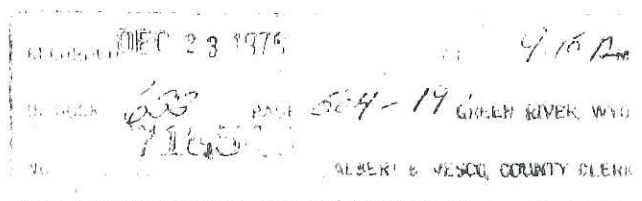
B. The nature of the Parcel hereinafter described is such as to make appropriate and desirable the applicability to such Parcel of certain protective covenants and restrictions designed to preserve and enhance the value of such Parcel and of real property situated in the vicinity of such Parcel. Declarants therefore desire to create a scheme of protective covenants and restrictions relative to such Parcel.

NOW, THEREFORE, for the foregoing purposes Declarants hereby make the following declarations and hereby set forth the protective covenants and restrictions described below, which said protective covenants and restrictions shall, in accordance with the terms and provisions hereof, apply to, bind, affect, and run with title to the Parcel hereinafter described.

I. DEFINITIONS

When used in this Declaration (including in that portion hereof headed "Recitals") each of the following terms shall, unless the context otherwise implies, have the meaning indicated.

Weber Property



12-17-76

1. Declaration shall mean and refer to this Declaration of Protective Covenants and Restrictions.

2. Master Declaration shall mean and refer to that certain "Declaration of Protective Covenants and Restrictions Concerning Commercial Property" which was recorded in the office of the County Clerk of Sweetwater County, Wyoming on June 2, 1976 as Entry No. 602692 in Book 616, Pages 445 through 463, as the same may have heretofore been or may hereafter be amended, modified, or supplemented in accordance with the terms thereof.

3. Parcel shall mean and refer to the following-described land situated in Sweetwater County, State of Wyoming:

A parcel of land located in the Northeast 1/4 of Section 33, Township 19 North, Range 105 West, 6th Principal Meridian, Sweetwater County, Wyoming being more particularly described as follows:

Beginning at a point on the Easterly Line of White Mountain Boulevard and the Northerly Line of Foothill Boulevard, said point being South 0° 06' 58" West 1,859.11 feet along the Section Line and West 950.88 feet from the Northeast Corner of Section 33, Township 19 North, Range 105 West, 6th Principal Meridian and running thence North 34° 36' 27" West 96.00 feet along the Easterly Line of said White Mountain Boulevard to a point on the centerline of a 33.00 foot gas line easement; thence North 53° 30' East 415.50 feet along said easement; thence North 87° 20' East 29.65 feet along said easement; thence South 35° 39' 42" East 85.92 feet to a point on the Northerly Line of said Foothill Boulevard; thence South 54° 20' 18" West 442.09 feet to the point of beginning. Containing 1.000 acres, more or less.

Provided, however, that in the event the above-described land is subsequently divided into one or more physical parts (as distinguished from fractional interests in the whole), each of said parts shall thereafter and for all of the purposes of this Declaration be considered and treated as a Parcel.

4. Owner shall mean and refer to the party who is the owner of record (in the office of the County Clerk of Sweetwater County, Wyoming) of a fee or an undivided fee interest in the Parcel. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term Owner

shall not mean or include a mortgagee under a mortgage or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

5. Occupant shall mean and refer to any party which, by virtue of a contract to purchase, a lease, a rental arrangement, or any other instrument, understanding, arrangement, or transaction, is entitled to or does occupy or use the Parcel or any portion thereof.

6. Mortgage shall mean and include both a first mortgage on the Parcel (or portion thereof) and a first deed of trust on the Parcel (or portion thereof).

7. Mortgagee shall mean and include both a mortgagee under a first mortgage on the Parcel (or portion thereof) and a beneficiary under a first deed of trust on the Parcel (or portion thereof).

8. Committee shall mean and refer to the Architectural and Development Control Committee which is provided for in Article II of the Master Declaration.

9. High Image Street shall mean, refer to, and include Foothill Boulevard (which Boulevard abuts upon the Parcel) and such other street or streets as may from time to time be designated as a High Image Street in a Supplement to the Master Declaration which meets the requirements of Section 10 of Article I of the Master Declaration.

10. Improvements shall mean, refer to, and include all improvements, of whatever kind or character, to the Parcel, including, without limitation, any Building, all Landscaping, out-buildings, driveways, walkways, exterior lighting, fences, loading areas, parking areas, railroad trackage, retaining walls, screening walls, signs, and utility conduits or facilities.

11. Building shall mean, refer to, and include a building or other principal structure on the Parcel intended for use or occupancy by an Owner or Occupant of the Parcel, including all extensions or projections thereof, all structures or facilities accessory or integral thereto, and any garages, platforms or docks, storage tanks, canopies or overhangs, porches, enclosed malls, and similar items.

12. Landscaping shall mean, refer to, and consist of the surface of that portion of the Parcel which is covered with, as well as, lawn, shrubberies, other ground cover, trees, and similar materials or matters (which may be combined with, and if so combined with would also include, earth berms, masonry,

or like facilities or materials) all harmoniously combined with each other and/or with other Improvements.

13. Declarants shall mean and refer to Total Concept Development Corporation, a Utah corporation, and Prudential Service Corporation, a Utah corporation, and/or to any party or parties which, either by operation of law or through a voluntary conveyance, transfer, or assignment, succeed to the rights, powers, and interests which are held by or provided unto said two corporations (or either of them) under this Declaration and the Master Declaration.

## II. COMMITTEE AND APPROVAL PROCEDURES

1. Committee Under Master Declaration. The Architectural and Development Control Committee under this Declaration shall be the Architectural and Development Control Committee which is provided for in Article II, Sections 1 and 2, of the Master Declaration, as said Committee under the Master Declaration does and may from time to time exist, all in accordance with the provisions of Article II, Sections 1 and 2, of the Master Declaration. Said Sections 1 and 2 of Article II of the Master Declaration provide for the number, qualifications, term, selection, removal, and replacement of Committee members, and reference is made to said Sections 1 and 2 for the particulars concerning such matters.

2. Manner of Acting and Records. Until December 31, 1982 the act, concurrence, or determination of all three Committee members shall constitute and shall be necessary to constitute the act or determination of the Committee. After December 31, 1982 the act, concurrence, or determination of any two or more Committee members shall constitute and shall be necessary to constitute the act or determination of the Committee. The foregoing shall be the case whether the act, concurrence, or determination involved occurs at a meeting, without a meeting, at the same time, or at different times. To the extent reasonable and practical the Committee shall maintain records revealing all significant actions taken or determinations made by it. In the event the Committee member who has possession of such records ceases to be a member, such records shall be immediately delivered to a remaining or successor member.

3. Function of Committee. A purpose and function of the Committee shall be to assure that all Improvements located on the Parcel harmonize with existing surroundings and structures and comply with the restrictions and requirements contained in or promulgated pursuant to this Declaration.

4. Development Guidelines. The Committee shall adopt and promulgate (and from time to time as necessary or

appropriate may modify), and shall furnish to any interested party upon request and payment of a reasonable charge therefor copies of, such Development Guidelines as may be reasonably necessary or appropriate, in the judgment of the Committee, to amplify or make more detailed (but not make less restrictive) the restrictions and requirements contained in this Declaration, to advise interested parties of the standards and policies which will be applied in reviewing plans and specifications for proposed construction, and to establish appropriate procedural rules with respect to the submissions of plans and specifications for approval.

5. Submission of Plans. No Improvement to or on the Parcel shall be constructed or accomplished, no excavation, grading, or like work on the Parcel shall be commenced, and no alteration, refurbishing, or repainting of any portion of any Improvement on the Parcel which is visible from any point beyond the boundaries of the Parcel shall be performed, unless and until complete plans and specifications therefor have first been submitted to and approved in writing by the Committee (which approval shall not be unreasonably withheld).

6. Approval Procedure. In determining whether to approve or disapprove plans and specifications submitted to it the Committee shall use its best judgment to assure that all Improvements on the Parcel are of good quality and of sound construction, harmonize with existing surroundings and structures, and comply with the requirements of this Declaration and of the Development Guidelines. The Committee may, however, approve plans and specifications which entail a variance from such requirements so long as in the reasonable judgment of the Committee such variance is necessary, desirable, appropriate, or not disadvantageous. Any plans and specifications submitted to the Committee shall be approved or disapproved by it in writing within thirty (30) days after submission. In the event the Committee fails to take any action within such period it shall be deemed to have approved the material submitted; provided, however, that to the extent (but only to the extent) such material contemplates a variance from the requirements of this Declaration or of the Development Guidelines, failure of the Committee to timely take action shall be deemed a disapproval of such material.

7. No Liability for Damages. No member of the Committee shall be held liable for damages by reason of any action, inaction, approval, or disapproval by him or by the Committee which occurs or is taken, given, or refused with respect to any request made pursuant to this Declaration or with respect to any matter arising by reason of or under this Declaration, so long as the action, inaction, approval, or disapproval involved did not occur as a result of malice or lack of good faith on the part of such member.

## III. PROHIBITED USES

1. Residential. Neither the Parcel nor any portion thereof shall be used, occupied, or possessed for residential purposes which are of a permanent nature and which are not normally associated with hotel or motel operations (other than the dwelling of watchmen or other persons whose continuous on-site presence is either necessary or customary given the nature of the business being conducted on the Parcel). The foregoing prohibition of residential uses shall not, however, apply to the Parcel or portion thereof if the zoning classification (as provided for by the governmental authority having jurisdiction) applicable to the Parcel or portion thereof concerned is or comes to be such as to contemplate that residential use will be the principal one involved (as distinguished from a zoning classification under which residential usage may be permissible, but only because it is considered a use more restrictive than the one said classification is principally designed to promote).

2. Non-Residential. Neither the Parcel nor any portion thereof shall be used, occupied, or possessed for any purpose or business which would directly or indirectly involve or result in any of the following:

- (a) Any public or private nuisance.
- (b) Any noise or sound that is objectionable due to intermittence, beat, frequency, shrillness, or loudness.
- (c) Any obnoxious or unpleasant odor.
- (d) Any obnoxious, toxic, caustic, or corrosive fuel or gas.
- (e) Any dust, dirt, or fly ash in excessive or unusual quantities.
- (f) Any explosion, unusual fire, or other damaging or dangerous hazard.
- (g) Any heavy manufacturing, distillation, refining, smelting, or mining operation.
- (h) Any agricultural operation.
- (i) Any trailer court, labor camp, junk yard, stock yard, or animal raising (other than a pet shop).
- (j) Any drilling for or removal of subsurface substances.

(k) Any dumping, disposal, incineration, or reduction of garbage or refuse.

#### IV. IMPROVEMENTS

1. Set Back -- Definition. Whenever used in this Article IV or elsewhere in this Declaration the term "set back" as to any line shall mean the minimum distance between the Building or other Improvement concerned and the line involved, and the "set back" as to any street (whether the same be public, private, dedicated, or otherwise) shall mean the minimum distance between the Building or other Improvement concerned and the nearest line of the street involved.

2. Prosecution of Construction. Once begun, construction of any Improvement shall be diligently prosecuted to completion. Construction of any Improvement shall in all respects be done in accordance with the plans and specifications therefor which were approved by the Committee and in a good and workmanlike manner.

3. Temporary Structures. No temporary Building or other temporary structure shall be placed or permitted on the Parcel, except that trailers or other necessary temporary structures may be placed on the Parcel during the course of, and as an adjunct to, construction thereon of any permanent Improvement. Any such necessary temporary structures shall, however, be located as inconspicuously as reasonably possible and so as to cause no inconvenience to parties owning or occupying adjoining property, and shall be removed no later than thirty (30) days after construction of the Improvements to which such temporary structures are related has been substantially completed.

4. Location of Buildings. If the Parcel abuts on any High Image Street any Building on the Parcel shall be set back at least forty (40) feet from such Street, except that: (a) A gasoline service station Building shall be set back at least thirty (30) feet from such Street; and (b) Any Building (or portion thereof) which is no more than twelve (12) feet in height may have a minimum set back of thirty (30) feet from such Street, so long as the width of the Building (or portion thereof) protruding beyond the forty (40) foot set back line otherwise applicable is no more than fifty percent (50%) of the frontage of the Parcel on such High Image Street.

If the Parcel abuts on any street other than a High Image Street, any Building on the Parcel shall be set back at least twenty (20) feet from such street.

The foregoing minimum set backs from streets (of whatever variety) are intended to create and preserve an attractive

setting for buildings located along the streets involved. It is recognized, however, that complete uniformity of building set back may not be desirable. Accordingly, the Committee may, in its sole judgment and discretion, approve on an ad hoc basis variations from the foregoing set back requirements in those instances where a less restrictive set back will tend to enhance, rather than detract from, the appearance along a street line. In conjunction with any such approved variation the Committee may also approve corresponding variations from the parking area minimum street set back requirements described in Section 6 below.

Any Building on the Parcel shall be set back at least fifteen (15) feet from each boundary line of the Parcel (other than the boundary line related to the street on which the Parcel abuts). The minimum set back requirement created by the foregoing sentence (as well as the requirements described in Section 6 below concerning minimum set backs of parking areas from other than streets) may be varied by the Committee on an ad hoc basis, but only with the written concurrence of each owner of any tract of land which may adjoin the Parcel on the boundary line to which the set back variance relates.

5. Obstructions Within Street Set Back Areas. Except for Landscaping, no fence, wall, or other Improvement which significantly impairs visibility or view and which is more than three (3) feet in height shall be located within the minimum street set back area applicable to the Building(s) situated on the Parcel.

6. Location of Parking Areas. If the Parcel abuts on any street (of whatever variety), any parking area on the Parcel shall be set back at least fifteen (15) feet from such street, except that a parking area incidental to a gasoline service station Building situated on the Parcel shall be set back at least five (5) feet from such street.

Any parking area on the Parcel shall be set back at least five (5) feet from each boundary line of the Parcel (other than the boundary line related to the street on which the Parcel abuts), except that if a parking area extends across a boundary line of the Parcel and is shared by the Owner or Occupant of the Parcel with the owner or occupant of the other property onto which it extends, then the foregoing set back requirement shall not be applicable with respect to the boundary line over which the parking area extends, so long as Landscaping is installed in the vicinity of such boundary line in order to counteract the monotony of the parking area involved.

7. Construction of Parking Areas. Any parking area on the Parcel shall be surfaced with concrete, asphalt, or other hard surface paving material, shall be adequately striped or



otherwise marked, shall be graded in such a way as to assure adequate water drainage, and, except in the case of a parking area incidental to a gasoline service station Building, shall be screened from view from any High Image Street by earth mounding and/or Landscaping.

8. Parking Ratios. No vehicles shall be parked on that portion of any public or dedicated street which abuts on the Parcel unless the same is expressly permitted by the governmental authority having jurisdiction. No vehicles shall be parked on that portion of any private or non-public street which abuts on the Parcel. Any areas on streets which, under the foregoing portion of this Section, may be used for parking may not be used to satisfy the minimum parking ratio requirements described in the balance of this Section 8.

The parking area on the Parcel shall be such as to satisfy the following requirements:

(a) If the Parcel is used for warehouse purposes, there shall be at least one (1) automobile parking space for each 1,000 square feet (or any portion thereof) of gross floor space contained in the Building or Buildings on the Parcel.

(b) If the Parcel is used for industrial purposes, there shall be at least one (1) automobile parking space for each 600 square feet (or portion thereof) of gross floor space contained in the Building or Buildings on the Parcel.

(c) If the Parcel is used for office purposes or for any commercial or other purpose not covered by (a) or (b) above, there shall be at least one (1) automobile parking space for each 200 square feet (or portion thereof) of gross floor space contained in the Building or Buildings on the Parcel.

The Committee may, in its sole judgment and discretion, approve on an ad hoc basis variations from the minimum parking ratio requirements described in the foregoing items (a) through (c).

9. Loading Service and Outside Storage. The Parcel shall have located thereon such Improvements as may be necessary to provide on-site loading facilities sufficient to accommodate the activities occurring on the Parcel. All vehicle movement which is necessary in connection with loading or unloading of commodities, including turn around and maneuvering,

shall occur on the Parcel and not in the abutting street. Loading docks, open or outside storage areas, and rubbish and garbage facilities shall be located and screened in such a way as to minimize visibility from streets. Any loading dock facing any street shall be set back at least sixty (60) feet from that street. The screening required by this Section 9 shall consist of earth mounding, landscaping, walls, fences, and/or a combination thereof.

10. Site Grading. The Improvements located on the Parcel shall include such drainage system or facility, and the finished grade of the Parcel shall be such, as is necessary to assure that surface water on the Parcel is properly and adequately controlled.

11. Exterior Lighting, Equipment, and Landscaping. Any floodlighting of any Building shall be accomplished only through a light source which is concealed from view. All exterior lighting fixtures (other than those used to light parking areas) shall be of such a type and installed in such a way that the light source is not visible from any street, and concealed light sources shall be used whenever and wherever reasonably practical. No exterior light fixture or any part of the support therefor shall be more than forty (40) feet above ground level.

Any mechanical equipment located on the exterior of a Building (including roof-mounted equipment) or otherwise visible from the outside of a Building shall be enclosed or screened in such a way as to appear to be an integral part of the architectural design of the Building to which it is attached or related.

All exterior lighting facilities, mechanical equipment, and Landscaping on the Parcel shall be completely installed within ninety (90) days after construction of a Building thereon is substantially complete or as soon thereafter as reasonably possible given weather conditions.

12. Signs. No sign or symbol may be placed or erected anywhere on the Parcel except as an attachment to a Building and in such a way that it is parallel to and as close as practical to a Building wall. No such item shall project above the roof line of the Building. No sign or symbol which moves or flashes shall be installed, and no sign or symbol shall be painted on a Building wall. No billboard or outdoor advertisement shall be placed or erected anywhere on the Parcel.

13. Utilities. Each utility line, connection, or installation shall be located underground and shall rise within the Building or fixture served thereby. Any exterior transformer, meter, or similar apparatus shall be located at

approximately ground level and shall be screened in such a way as to minimize visibility from any street.

14. Maintenance. All Buildings, Landscaping, and other Improvements situated on the Parcel shall be continuously maintained, and each part of the Parcel shall at all times be kept clean and in good order, by the Owner or Occupant of the Parcel. If the Committee determines that the level of maintenance or orderliness of the Parcel or any of the Improvements thereon is not acceptable, it shall give written notice of such determination either to any Owner or to any Occupant thereof (at the Committee's option). If the state of affairs is not rectified within thirty (30) days after such notice, the Committee may pursue or exercise any available right or remedy and may, if it so elects, itself arrange for the necessary work to be performed. If the Committee so arranges, the cost of such work shall be an expense of and shall be paid by the Owner(s) or Occupant(s) of the Parcel, and all such Owner(s) and Occupant(s) shall be jointly and severally liable therefor. The provisions of this Section 14 concerning the rights available to the Committee in the event the Parcel or the Improvements thereon are not adequately maintained or kept are not intended to exclude any other interested party from obtaining appropriate relief.

#### V. DECLARANTS' RIGHTS

1. Role of Declarants. Declarants, or one of them, currently are pursuing the development, improvement, and/or disposition for commercial purposes of the Parcel and of certain real property situated in the vicinity of the Parcel, including portions of the "Entire Tract" referred to and identified in the Master Declaration, and anticipate that such activities will continue and be ongoing for a substantial period of time. The ability to pursue such development, improvement, and/or disposition is and will be essential for the establishment of the Parcel and of certain real property situated in the vicinity of the Parcel (including portions of said "Entire Tract") as desirable commercial property, and consequently will benefit not only Declarants but also the Owners and Occupants of the Parcel and the owners and occupants of other real property in the vicinity of the Parcel.

2. Exception for Declarants. Because of the considerations mentioned in the preceding Section 1, for the twenty (20) years following the date on which the Master Declaration was filed for record in Sweetwater County, Wyoming, nothing in this Declaration (irrespective of terms appearing elsewhere in this Declaration) or in the Master Declaration shall be construed or shall be enforced or applied in such a way as to prevent Declarants, or either of them, or any of their

or its contractors, subcontractors, agents, or employees from accomplishing or pursuing on or with respect to the Parcel or any real property situated in the vicinity of the Parcel (including portions of the "Entire Tract" referred to and identified in the Master Declaration) any matter, activity, or work which in Declarants' reasonable judgment is necessary, advisable, or appropriate for the development, improvement, and/or disposition of the Parcel or of any real property in the vicinity of the Parcel (including any portion of said "Entire Tract"), including, without limitation, the erection of any structures, the use of any signs, the use which is made of any property, or any matter, activity, item, or thing designed or intended directly or indirectly to promote any of the objectives referred to in Section 1 above.

3. No Obligation to Develop. This Declaration and the Master Declaration are not intended and shall not be construed so as to impose upon Declarants, or either of them, or upon any assignee or successor of Declarants, or either of them, any obligation respecting, or to restrict Declarants, or either of them, or any such assignee or successor in any way with regard to: (i) The imposition of or the failure to impose the terms of this Declaration or terms similar to those contained in this Declaration to any real property situated in the vicinity of the Parcel (including all or any portion of the "Entire Tract" referred to and identified in the Master Declaration); (ii) The creation or construction on or with respect to the Parcel or any of the real property referred to in the preceding item (i) of any improvement of whatever kind or character; (iii) The carrying out in any particular way or within any particular time of any development, sales, marketing, or other activities which may be undertaken; or (iv) The taking of any particular action with respect to the Parcel or any of the real property referred to in the foregoing item (i).

4. Limitation on Declarants' Rights. Total Concept Development Corporation and Prudential Service Corporation, the Declarants named herein, and each of them, agree in favor of Willamette Development Corp., an Oregon corporation duly authorized to do business in the State of Wyoming, that they shall not utilize any of the exceptions provided for in Section 2 of this Article V without first obtaining the written approval of said Willamette Development Corp. (not to be unreasonably withheld).

5. Declarants' Rights Assignable. The rights of Declarants, or either of them, under this Declaration and the Master Declaration may be assigned or transferred either by operation of law or through a voluntary conveyance, transfer, or assignment. Total Concept Development Corporation and Prudential Service Corporation, the Declarants named herein, agree, however, that prior to December 31, 1981 they will not assign,

transfer, convey, or encumber their rights under this Declaration or the Master Declaration without first obtaining the written consent of Willamette Development Corp.

6. Agreement to Assign. Total Concept Development Corporation and Prudential Service Corporation, the Declarants named herein, for valuable consideration, agree that on December 31, 1981, they will assign all of their rights and privileges under this Declaration and the Master Declaration to Willamette Development Corp., unless said Declarants have previously assigned their rights hereunder and thereunder to a third party in accordance with the foregoing Section 5.

7. Not Exclusive. The provisions of this Article V are not intended to constitute an exhaustive statement of Declarants' rights, and shall not be construed to be in limitation of any other rights which may be accorded to Declarants, or either of them, elsewhere in this Declaration.

## VI. MISCELLANEOUS

1. Duration. Unless sooner terminated in accordance with the terms of the following Section 2, this Declaration and all of the provisions hereof shall be and remain in force and effect for the fifty (50) year period following the date on which the Master Declaration was filed for record in the office of the County Clerk of Sweetwater County, Wyoming.

2. Amendment or Termination. Any instrument purporting to amend or terminate this Declaration or any of the provisions hereof prior to the expiration of twenty (20) years after the date on which the Master Declaration was filed for record in the office of the County Clerk of Sweetwater County, Wyoming shall not be effective at the time said instrument comes into existence or at any time thereafter unless said instrument is executed by Declarants. Subject to the provisions of the foregoing sentence and to the provisions of the first Paragraph of the following Section 3, this Declaration may be amended or terminated by, but only by, an instrument filed for record in the office of the County Clerk of Sweetwater County, Wyoming which is executed by Owners (at the time said instrument is so filed for record) who, considered collectively, own at least seventy percent (70%) of the total acreage contained in the Parcel. If any Owner holds a fractional interest in the Parcel, for purposes of the foregoing sentence said Owner shall be considered to own the total acreage contained in the Parcel multiplied by his fractional interest therein. The consent of any Occupant, Mortgagee, or other holder of an encumbrance on the Parcel or portion thereof, or any party interested in any real property other than the Parcel, shall not be required to make any amendment or termination of this Declaration effective (subject, however, to the

provisions of the first sentence of this Section 2 and to the provisions of the first Paragraph of the following Section 3).

3. Mortgagee Protection. No amendment to (as distinguished from termination of) this Declaration shall in any way affect the rights of any Mortgagee (with respect to the Parcel or portion thereof encumbered by the Mortgage held by such Mortgagee) or of any successor in interest or title to such Mortgagee, either before or after such Mortgagee or its successor obtains title pursuant to foreclosure or any arrangement or proceeding in lieu thereof, unless such Mortgagee has consented in writing to such amendment through an instrument filed for record in the office of the County Clerk of Sweetwater County, Wyoming.

A breach of any of the provisions, restrictions, or requirements of this Declaration shall not defeat, impair, or render invalid the lien of or other rights under any Mortgage.

4. Covenants to Run with Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of Declarants, each Owner and Occupant, any other party who acquires or comes to have any interest in the Parcel, and their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. This Declaration and all of the provisions hereof shall also inure to the benefit of each and every portion of the "Entire Tract" referred to and identified in the Master Declaration and each party owning or occupying any such portion. Each Owner or Occupant shall comply with, and all interests in the Parcel shall be subject to, the terms of this Declaration and the provisions of any instruments, supplements, amendments, and determinations contemplated by this Declaration. By acquiring any interest in the Parcel, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

5. Enforcement. Declarants, or either of them, the Committee, any Owner, any Occupant, any other party interested in the Parcel, and any party interested in any portion of the "Entire Tract" referred to and identified in the Master Declaration shall have the right to enforce, through any appropriate proceeding at law or in equity, the terms, provisions, restrictions, and requirements of this Declaration. Any failure to insist upon the performance of or compliance with any of such terms, provisions, restrictions, and requirements shall not result in or be construed to be an abandonment or termination of the arrangement created by this Declaration or any waiver of the right to insist upon such performance or compliance in the future.

6. Partial Invalidity. The invalidity or unenforceability of any portion of this Declaration or of any portion of any instrument contemplated by or referred to in this Declaration shall not affect the validity or enforceability of the remainder hereof or thereof, and if any provision of this Declaration or of such other instrument or the application thereof to any party or circumstance should to any extent be invalid, the remainder of this Declaration or of such other instrument or the application of such provision to parties or circumstances other than those as to which a holding of invalidity is reached shall not be affected thereby, and each provision of this Declaration and of such other instrument shall be valid and enforceable to the fullest extent permitted by law.

7. Interpretation. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders.

8. Effective Date. This Declaration, any amendment or termination hereof, and any supplement hereto shall take effect upon its being filed for record in the office of the County Clerk of Sweetwater County, Wyoming.

EXECUTED as of the day and year first above written.

"Declarants":

ATTEST:

Title:

TOTAL CONCEPT DEVELOPMENT  
CORPORATION

By

Its

PRUDENTIAL SERVICE CORPORATION

ATTEST:

Title:

By

Its

STATE OF UTAH )

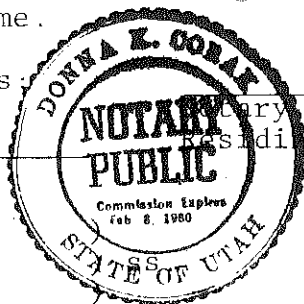
) ss.

COUNTY OF SALT LAKE )

On this 21st day of December, 1976, personally appeared before me Richard S. Prows and E. Vincent Clayton, who being by me duly sworn, did say that they are the President and Secretary, respectively, of TOTAL CONCEPT DEVELOPMENT CORPORATION, a Utah corporation, and that the foregoing Declaration of Protective Covenants and Restrictions was signed on behalf of said corporation by authority of its Bylaws or a resolution of its Board of Directors, and said Officers acknowledged to me that said corporation executed the same.

My Commission Expires:

February 8, 1980



Notary Public

Residing at:

Salt Lake City, Utah

STATE OF UTAH

COUNTY OF SALT LAKE

On this 20 day of December, 1976, personally appeared before me Stephen P. Jerry and John S. Lindeman, who being by me duly sworn, did say that they are the Vice President and Secretary, respectively, of PRUDENTIAL SERVICE CORPORATION, a Utah corporation, and that the foregoing Declaration of Protective Covenants and Restrictions was signed on behalf of said corporation by authority of its Bylaws or a resolution of its Board of Directors, and said Officers acknowledged to me that said corporation executed the same.

My Commission Expires:

February 8, 1980

Notary Public

Residing at:

Bountiful, Utah