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After recordation, return to:

John K. M. Olsen
Attorney at Law
CottonTree Square, Bldg. 7G
2230 No. at University Parkway
Provo, UT 84604

ENT 88169 BK 4107 PG 115
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
1996 Oct 29 03:59 pm FEE 16.00 BY JRD
RECORDED FOR TITLE WEST TITLE CO

THIRD SUPPLEMENT TO

DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS

OF

EAST MOUNTAIN

A Planned Unit Development (Expandable)

Provo, Utah County, Utah

THIS THIRD SUPPLEMENT TO DECLARATION is made as of this ___ day of September, 1996, by **EAST MOUNTAIN DEVELOPMENT, L.C.** , a Utah limited liability company ("Declarant"), pursuant to the following:

RECITALS:

A. Declarant is the developer of East Mountain, an expandable Planned Unit Development in Provo, Utah (the "Development").

B. On or about December 21, 1994, Declarant caused to be recorded as Entry No. 95723, Book 3591, Page 320, in the office of the Recorder of Utah County, Utah, that certain **Declaration of Easements, Covenants, Conditions and Restrictions of East Mountain, A Planned Unit Development (Expandable)** (the "Declaration") relating to the Development.

C. Pursuant to §3.03 of the Declaration, Declarant is permitted to annex into the Development additional real property ("Additional Land") as set forth and described in the Declaration (including any Exhibit thereto) for purposes of development into additional Lots and Common Areas, if any, consistent with the existing phases (Plats "A", "B", "C" and "D") of the Development and with the Declaration.

D. Declarant desires to annex a portion of the Additional Land into the Development for development as Plat "E" of the Development.

NOW, THEREFORE, Declarant hereby declares as follows:

1. All defined terms as used in this Third Supplement to Declaration shall have the same meaning as those set forth and defined in the Declaration. The term "Declaration" shall be deemed to include the Declaration and all subsequent supplements or amendments thereto.

2. The following described real property situated in the City of Provo, County and State of Utah, is hereby submitted to the provisions of the Declaration and, pursuant thereto, is hereby annexed into the Development to be held, transferred, sold, conveyed and occupied as a part thereof:

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Beginning at a point South 83.86 feet and West 895.68 feet of the Southeast corner Section 17, Township 7 South, Range 3 East, Salt Lake Base & Meridian; said point being the Southwesterly corner of Plat "C" East Mountain subdivision; thence along said subdivision line North 43°13'27" East 125.37 feet; thence North 27°16'29" East 75.42 feet; thence North 41°59'37" East 93.97 feet to the Northeasterly corner of said Plat "C"; then South 30°41'31" East 75.74 feet; thence South 40°17'42" East 70.45 feet; thence South 46°46'33" East 762.76 feet; thence South 57°08'00" West 374.11 feet to the Northeasterly corner of Plat "D" East Mountain subdivision; thence North 32°52'00" West 120.00 feet along said subdivision line; thence North 57°08'00" East 7.54 feet; thence North 32°52'00" West 56.00 feet; thence North 42°46'40" West 304.51 feet to the Northeasterly corner of said Plat "D", also being the Easterly most corner of Plat "A" East Mountain subdivision; thence North 42°46'40" West 35.79 feet along said subdivision line; thence North 47°09'59" West 215.00 feet; thence North 24°32'39" West 40.94 feet to the Northerly most corner of said Plat "A", also being the Southeasterly most corner of Plat "B" East Mountain subdivision; thence North 24°32'40" West 34.00 feet along said subdivision line to the point of beginning. Containing 6.01 acres.

TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described parcel of real property, whether or not the same are reflected on the Plat.

RESERVING UNTO DECLARANT, however, such easements and rights of ingress and egress over, across, through, and under the said property and any improvements (except buildings) now or hereafter constructed thereon as may be reasonably necessary for Declarant (in a manner which is reasonable and not inconsistent with the provisions of the Declaration): (i) to construct and complete each of the buildings and all of the other improvements described in the Declaration or in the Plat, and to do all things reasonably necessary or proper in connection therewith; (ii) to construct and complete on the Additional Land or any portion thereof such improvements as Declarant shall determine to build in its sole discretion (and whether or not the Additional Land or any portion thereof has been or hereafter will be added to the Development); and (iii) to improve portions of the said property with such other or additional improvements, facilities, or landscaping designed for the use and enjoyment of all the Owners as Declarant may reasonably determine to be appropriate. If, pursuant to the foregoing reservations, the said property or any improvement thereon is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line shall exist. With the exception of such perpetual easements, the reservations hereby effected shall, unless sooner terminated in accordance with their

terms, expire twenty (20) years after the date on which the Declaration is filed for record in the office of the County Recorder of Utah County, Utah.

ALL OF THE FOREGOING IS SUBJECT TO all liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all Patent reservations and exclusions; all mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described real property or any portion thereof, including, without limitation, any Mortgage (and nothing in this paragraph shall be deemed to modify or amend such Mortgage); all visible easements and rights-of-way; all easements and rights-of-way, encroachments, or discrepancies shown on or revealed by the Plat or otherwise existing; an easement for each and every pipe, line, cable, wire, utility line, or similar facility which traverses or partially occupies the said real property at such time as construction of all Development improvements is complete; and all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, lines, cable, wires, utility lines, and similar facilities; **AND TO EACH OF THE COVENANTS, EASEMENTS, CONDITIONS AND RESTRICTIONS CONTAINED IN THE DECLARATION.**

3. Section 3.02 of the Declaration in amended in its entirety to read as follows:

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3.02 Subdivision into Lots. The Development is hereby subdivided into sixty-six (66) Lots, as set forth and described in the Plats, with appurtenant and equal rights and easements of use and enjoyment in and to any Common Areas, as well as appurtenant obligations, all as set forth in the Declaration.

4. Plat "E" of the Development contains Common Area labeled as Parcel C which Parcel C adjoins other Common Area from prior phases of the Development.

5. Except as amended by the provisions of this Second Supplement to Declaration, the Declaration, as previously supplemented or amended, shall remain unchanged and, together with this Third Supplement to Declaration shall constitute the entire Declaration of Easements, Covenants, Conditions and Restrictions for the Development as expanded by the annexation of the Additional Land described herein.

6. This Third Supplement to Declaration shall be recorded concurrently with the Plat entitled **Plat "E", East Mountain, An Expandable Planned Unit Development, Provo, Utah County, Utah**, prepared and certified to by Thurman E. Madden (a duly registered Utah Land Surveyor holding Certificate No. 156204), executed and acknowledged by Declarant, accepted by Provo City, and filed for record in the office of the County Recorder of Utah County.

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IN WITNESS WHEREOF, Declarant has executed this instrument the day and year first above set forth.

DECLARANT:

EAST MOUNTAIN DEVELOPMENT, L.C.

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By: Ray G. Morley, Mgr
Ray G. Morley, Manager

STATE OF UTAH)
: ss.
COUNTY OF UTAH)

On this 11 day of September, 1996, personally appeared before me **Ray G. Morley** who, being by me duly sworn, did say that he is the Manager of **East Mountain Development,** L.C., a Utah limited liability company; that said instrument was signed by him in behalf of said company pursuant to authority; and that said company executed the same.

WAYNE M. ROWLEY
NOTARY PUBLIC • STATE of UTAH
M-13 CONSTRUCTION
1190 NORTH SPRING CREEK PLACE
SPRINGVILLE, UT 84663
COMM. EXP. 6-23-99

Wayne M Rowley
Notary Public