263294

AMENDED

DECLARATION OF COVENANTS OF SUMMERWOOD SUBDIVISION

THIS INDENTURE AND DECLARATION, running with the land, made this 3rd day of September, 1996, by RANDALL CORPORATION, an Idaho corporation, and CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole, Declarants,

WITNESSETH,

WHEREAS, Declarants were the owners in fee, at the time the original Declaration of Covenants was adopted and recorded, of all the land contained within the boundaries of SUMMERWOOD SUBDIVISION, a subdivision of the City of Rexburg, located in the SE 1/4 of Sec. 24, Twp. 6 N., R. 39, E.B.M., Madison County, State of Idaho, consisting of Block 1, Lots 1-6; Block 2, Lots 1-6, and Block 3, Lots 1-6, as per the recorded plat thereof, recorded in the office of the Recorder of Madison County, Idaho, as Instrument No. 255418, records of said County, and which by reference is incorporated herein, and

WHEREAS, said original Declaration of Covenants provided that said Declaration could be amended at any time by Declarants prior to the sale of all lots, and all of the lots have not been sold, and

WHEREAS, Declarants desire to amend said original protective covenants upon the real property for the mutual benefit of all owners, present and future,

NOW, THEREFORE, Declarants hereby declare as follows:

I - AREA OF APPLICATION

A. RESIDENTIAL BLOCKS AND LOTS.

1. LAND USE. Block 1, Lots 1-6; Block 2, Lots 2-6, and Block 3, Lots 1-6 shall be used for single family residences only. No other building shall be erected, altered, placed or permitted to remain on any such lot other than one detached single-family dwelling not to exceed two stories in height and a private garage for at least two cars.

Lot 1, Block 2, is owned by the Church of Jesus Christ of Latter Day Saints. Said area is designated as the site for a church building with all of the attendant amenities and facilities necessary therefor and appurtenant thereto. All plans

for said church building have been approved, and the church has been constructed.

2. DWELLING QUALITY AND SIZE. It is the intention and purpose of these amended covenants to insure that all dwellings shall be of a high quality of workmanship and materials, and that as each home is built, it shall enhance the value of the other homes in the subdivision. All dwellings shall be of a "stick built" variety. Mobile homes, manufactured housing and modular homes are specifically not permitted. The size and quality of the dwellings shall be as follows:

(a) SINGLE STORY DWELLINGS. The ground floor area of the main structure, exclusive of one story open porches and garages shall not be less than 1300 sq. ft. for a one-story dwelling.

(b) ONE AND A HALF STORY, TWO STORY AND BI-LEVEL DWELLINGS. One and a half story, two story and bi-level dwellings shall have a ground floor area of not less than 900 square feet, providing, however, that such residence shall contain at least 1600 square feet exclusive of basement, garage and open porches.

(c) SPLIT LEVEL DWELLINGS. For split level dwellings, the combined area of the top level and next to top level, exclusive of garage and open porches, shall be not less than 1100 square feet; providing, however, that such residence shall contain at least 1600 square feet exclusive of basement, garage and open porches.

3. CONTRACTOR. All homes shall be built by a full-time, qualified building contractor, who must be approved by the Architectural Control Committee hereinafter provided for. The contractor shall be responsible for obtaining all necessary permits, licenses and approvals required by the City of Rexburg and the State of Idaho at the time of construction.

4. BUILDING LOCATION. No building shall be located on any lot nearer to the lot lines than as required by the building codes and ordinances of the City of Rexburg at the time of construction. For the purposes of this covenant, uncovered steps and porches shall be considered as a part of a building.

5. EASEMENTS. Easements for installation and maintenance of utilities such as electric power, telephone lines, gas lines, water lines, sewer lines and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structures, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which maychange the direction of flow of drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the

owner of the lot, except for those improvements for which a public authority or utility company is responsible.

6. NUISANCES. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood or detract from its value.

7. PARKING OF VEHICLES. Unless enclosed in an attached garage, recreational vehicles shall be parked only in designated driveways, and never for a period of more than four consecutive days and a cumulative total of 30 days in a calendar year. No vehicle of any kind shall be parked in any front or side yard except in a designated driveway.

8. HOME BUSINESSES. Before applying to the city for a conditional use permit or home occupation permit, a home owner must register an intention to have a home business with the Architectural Control Committee, hereinafter provided for, and approval must be obtained from said committee.

9. TEMPORARY STRUCTURES. No structure of a temporary character, trailer, basement house, tent, shack, garage, barn or other outbuildings shall be used on any lot at any time as a residence either temporarily or permanently.

10. SIGNS. No advertising signs of any kind shall be displayed to the public view on any lot, except one sign of not more than five square feet advertising the property for sale or for rent, or signs used by a builder or Declarant Randall Corporation to advertise the property during the construction and sales period, and except for Lot 1, Block 2, where the Church of Jesus Christ of Latter Day Saints shall be allowed to construct and maintain signs thereon customarily used for meeting houses.

11. PETS. No animals or fowls of any kind shall be raised, bred or kept on any lot except that dogs, cats or other household pets may be kept, provided they are not kept, bred or maintained for any commercial purposes. No such household pet which is or becomes an annoyance or nuisance to the neighborhood shall thereafter be kept on any lot.

12. GARBAGE AND TRASH. No vacant lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, and other waste. All waste will be kept in sanitary containers which shall be set out only on pick up days by the city. No trash, refuse pile, junked or inoperable vehicles, underbrush, compost pile or other unsightly growth or objects shall be allowed to accumulate or remain on any lot so as to be a detriment to the neighborhood or become a fire hazard. During construction, periodic efforts shall be made by the lot owner or his contractor to pick up scrap

materials and other construction debris and to dispose of said materials.

13. SIGHT DISTANCES AT INTERSECTIONS. No fence, wall, hedge, shrub, or planting which obstructs sight lines at elevations between two and six feet
above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 30 feet from the intersection of the street lines, or in the case of a rounded corner, from the intersection of the street property lines extended. The same straight line limitations shall apply on any lot within ten feet from the intersection of a street property line with the edge of a driveway. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

14. FENCES. No fence, including a solid board, chain link, concrete block, picket fence or retaining wall shall be erected that does not have an equally pleasing appearance from either side unless permission is obtained in writing from the adjoining lot owners whose property such fence separates. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the minimum building setback line.

15. COMPLETION OF DWELLING. A dwelling must be built upon a lot within four years of the date of purchase of said lot; otherwise, the owner is required to sell the lot back to the Declarant Randall Corporation, at the same price as paid therefor, with no interest. Compliance with this provision shall be at the option of the Declarant Randall Corporation.

16. COMPLIANCE WITH CODES/ENVIRONMENTAL LAWS. In all cases, ultimate responsibility for complying with all statutes, ordinances, rules and regulations of federal, state and local government, including those relating to hazardous waste, rests with the lot owner and contractor employed by owner. The owner of each lot shall hold the Architectural Control Committee, hereinafter formed, and Declarants harmless in the event of owner's failure to comply with any of such laws.

B. MULTIPLE DWELLING AREA.

1. LAND USE. Lot 7 of Block 3 shall be used for twin townhomes and the providing for any and all other services necessary and appurtenant for such use.

The Church of Jesus Christ of Latter Day Saints may install a pump house and buried pipelines for irrigation from the Rexburg Irrigation Company, if desired, for use on Lot 1 of Block 2, and shall have an easement for said buried pipeline

from said canal across the North end of Lot 7 of Block 3 and across Marianne Drive to the Northwest corner of said Lot 1 of Block 2 of said Subdivision.

2. OWNERS' ASSOCIATION. A twin townhomes owners' association shall be formed, subject to the approval of Randall Corporation, by the owner, or owners, or contractor, who own or build the twin townhomes within the SummerWood Townhomes Subdivision of the SummerWood Subdivision, for the purposes of developing and operating all lots and townhomes within said SummerWood Townhomes Subdivision of the SummerWood Subdivision, including any recreational facilities and common areas. All owners of twin townhomes shall be required to be members of such association and shall be bound by the provisions of the Articles and By-Laws of such association, as formed.

C. PARK AREA.

The main entrance of SummerWood Subdivision is on West Second North Street. A parcel of land owned by Randall Corporation, measuring 281.80 feet in length and 64.50 feet in width on the south side of said street is hereby designated as a park area. The purchaser of each of Lots 1, 2, 3, 4, 5 and 6 in Block 1, and Lots 2, 3, 4, 5 and 6 in Block 2, will also be conveyed an undivided 1/11 interest in said Park area and all improvements thereon. All future conveyances of said lots must include the conveyance of said interest in said Park area, as a covenant running with the title of said lots. The Declarant, Randall Corporation, has installed a sidewalk along the park area, a decorative sign designating the area as SummerWood, fencing, landscaping, and an automatic sprinkler system thereon. The owner of each of said lots shall be responsible for 1/11 of the total maintenance of the Park area in the condition it is now in.

II. ARCHITECTURAL CONTROL COMMITTEE.

A. MEMBERSHIP. The Architectural Control Committee shall be composed of three members, the original committee to be designated by Declarant Randall Corporation. A majority of the committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining members shall have full authority to designate a successor. Neither the members of the committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. After all lots are sold, the then record owners of a majority of the lots shall have the power, through a duly recorded written instrument, to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties. If said committee ceases to function for any reason, the requirements of this entire Part II shall be met by filing plans and specifications for approval or disapproval with the Building Inspector of the City of Rexburg, Idaho.

B. PROCEDURE. The Architectural Control Committee shall be responsible for reviewing the plans and specifications for each home proposed for the Home Area of this subdivision, as well as considering the qualifications of the proposed contractor for such homes. The committee is hereby granted full power and authority to approve or disapprove of any house plans. Such approval or disapproval shall be in writing, and if approved, a copy of the plans and specifications shall be retained by the committee until the home is completed.

C. ADDITIONS TO RULES. The committee may make such reasonable rules and adopt such procedures from time to time as it deems necessary to carry out its functions, which rules and procedures may not be inconsistent with the provisions of these amended covenants.

III. GENERAL PROVISIONS.

A. TERM. These amended covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five years from the date these amended covenants are recorded, after which time said amended covenants shall be automatically extended for successive periods of ten years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said amended covenants in whole or in part.

B. ENFORCEMENT. The lots shall be held, sold, and conveyed subject to the easements, covenants, conditions and restrictions set forth herein, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the lots. No lot shall be resold without attaching a copy of these amended covenants to the deed conveying such lot. Enforcement may be by the Architectural Control Committee or any aggrieved party by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages.

C. AMENDMENT. This declaration can be amended at any time by Declarants prior to the sale of all lots. Thereafter, this Declaration can be amended by an affirmative majority vote of the lot owners.

D. SEVERABILITY. Invalidation of any one of these amended covenants shall not affect the other provisions, which shall remain in full force and effect.

E. NOTICE. Any notice required hereunder shall be deemed effective when personally delivered or when mailed by certified mail to the owner of public record at the time of such mailing to such owner's address as appears on the Madison County Tax Records.

IN WITNESS WHEREOF, The Declarants have hereunto set their hands and seals this 3rd day of September, 1996.

RANDALL CORPORATION

By: Pat R. Allsen
Pat R. Allsen

Attest:
Jackie R. Taylor
Secretary

CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS

By:
As Its authorized agent

STATE OF UTAH,)
ss.
County of Utah.)

On this 3rd day of September, 1996, before me, the undersigned, a Notary Public in and for said State, personally appeared PAT R. ALLSEN, known to me to be the President of Randall Corporation, the corporation that executed the foregoing instrument and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

DONALD TREGASKIS
NOTARY PUBLIC • STATE of UTAH
310 SOUTH 200 WEST
PROVO, UT 84601
COMM. EXP. 10-25-96

Donald Tregaskis
Notary Public for Utah
Residing at Provo, Ut
My Commission Expires: _____

STATE OF IDAHO,)
ss.
County of Canyon)

On this 1st day of September, 1996, before me, the undersigned, a Notary Public in and for said State, personally appeared JACKIE R. TAYLOR, known to me to be the Secretary, of RANDALL CORPORATION, the corporation that executed the foregoing instrument and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

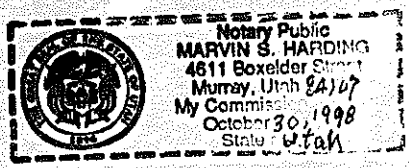
Cecelia Jean Hawkes
Notary Public for Idaho
Residing at: Caldwell, Idaho
My Commission Expires: 4-25-97

STATE OF UTAH,)
ss.
County of Salt Lake.)

On this 1st day of October September, 1996, before me, the undersigned, a Notary Public in and for said State, personally appeared Ted D. Simmons, known to me to be the authorized agent of the Corporation of the Presiding Bishop of

the Church of Jesus Christ of Latter-Day Saints, the corporation that executed the foregoing instrument and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Marvin S. Harding
Notary Public for Utah
Residing at: Murray Utah
Commission Expires: October 30, 1998

State of Idaho)
County of Madison) SS 263294

I hereby certify that the within instrument was filed OCT. 15 1996
19 at 10:34 M., and recorded on Film 263294
Fee 7.00
by BETH B. REESE, Recorder
Deputy
At the request of Jerry's Title