

PREPARED BY AND UPON
RECORDATION RETURN TO:

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MARY ANN TRUSSELL, SUMMIT COUNTY RECORDER

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DECLARATION OF OPEN SPACE EASEMENTS
AND RESTRICTIONS
(Golf Course Parcels)

THIS DECLARATION OF OPEN SPACE EASEMENTS AND RESTRICTIONS (Golf Course Parcels) (this "**Declaration**"), is entered into as of the 18th day of September, 2014 ("**Effective Date**"), by THE CANYONS GOLF CLUB, LLC, a Utah limited liability company ("**Grantor**"), in favor of SUMMIT COUNTY, UTAH, a political subdivision of the State of Utah ("**Summit County**"), and THE CANYONS RESORT VILLAGE ASSOCIATION, INC., a Utah nonprofit corporation ("**RVMA**") (Summit County and RVMA are sometimes collectively referred to as the "**Grantee**"). Grantor and Grantee are sometimes referred to herein individually as a "**Party**" and collectively as the "**Parties**".

WITNESSETH:

WHEREAS, Grantor owns certain real property located in Summit County, Utah, described on Exhibit "A" attached hereto and made a part hereof (collectively, the "**Golf Course Parcels**"), individually, a "**Golf Course Parcel**"), which, pursuant to that certain Amended and Restated SPA Development Agreement for The Canyons Specially Planned Area, dated November 15, 1999 (as amended, restated, modified, or otherwise supplemented from time to time, the "**SPA Development Agreement**"), is contemplated to be dedicated as open space but developed, operated, maintained and used as a golf course (the "**Golf Course**") and other recreational activities and uses.

WHEREAS, the SPA Development Agreement requires that certain deed restrictions for open space be imposed on the Golf Course Parcels and this Declaration shall be deemed to satisfy the open space requirements related to the Golf Course as set forth in Section 3.2.6 and portions of Section 3.8.2.3 of the SPA Development Agreement and the other applicable open space requirements for the Golf Course in the Canyons SPA Documents.

WHEREAS, Summit County, acting in its governmental capacity, would not have entered into the SPA Development Agreement but for the provisions requiring such deed restrictions for open space.

NOW, THEREFORE, in consideration of the recitals as set forth above and the covenants, terms, conditions and restrictions contained herein, which the Parties hereby agree constitute adequate consideration for this Declaration, the Parties hereby agree as follows:

1. Definitions. Certain capitalized terms which are used in this Declaration are defined in this Declaration prior to this Section 1. In addition to those previously defined capitalized terms, the following capitalized terms shall have the meanings indicated:

"Affiliated Persons" means, with respect to the Owner of the Golf Course Parcels or the Operator, as applicable, their respective managers, members, authorized agents, officers, directors, employees and contractors.

"Approved Uses" is defined in Section 5.

"Canyons SPA Documents" means: (i) the SPA Development Agreement; (ii) all master plats described on Exhibit "A"; (iii) all master easement agreements, cost sharing agreements, golf course easement agreements and other declarations, agreements and instruments referenced in each of the Master Plats; (iv) the Low Impact Permit for The Canyons Golf Course and other permits and approvals of Summit County, acting in its governmental capacity; and (v) for purposes of the RVMA only, and not for Summit County, acting as a Grantee and not in its governmental capacity, the Management Agreement.

"Community and Event Uses" is defined in Section 5(b).

"Corps" is defined in Section 18.

"Easement" is defined in Section 2.

"Finally Abandoned" or "Final Abandonment" means that the Golf Course, after completion of construction and commencement of golf play, ceases to be used and operated for golf play; provided, the Golf Course shall only be deemed to be "Finally Abandoned" on the earlier of the following dates: (i) other than by reason of Force Majeure, no significant paid golf play has occurred for more than two (2) consecutive summer golf seasons during which a majority of the other golf courses in Summit County, Utah were open for golf play, in which case the Golf Course shall be deemed to be Finally Abandoned as of December 31 of the calendar year in which this condition is satisfied; or (ii) the Owner of the Golf Course Parcels notifies Grantee in writing that it has ceased or, on a date certain will cease, to use the Golf Course Parcels for golf play, in which event the Golf Course shall be deemed to be abandoned on the date specified in such notice or if no date is specified, the date of such notice.

"Force Majeure" means any prevention or delay in the performance of a specified obligation or satisfaction of a specified act or provision required under this Declaration or cessation of golf play by reason of a strike, labor trouble, acts of nature, or any other cause or circumstances affecting the Golf Course Parcels other than general economic conditions that are beyond the Owner's control, including, without limitation, unavailability of materials or services at commercially reasonable prices and the inability after good faith diligent efforts to obtain required consents, approvals, or rights from any third Persons, other than Summit County, acting in its governmental capacity, or the RVMA. The performance of any such obligation, condition, or covenant required under this Declaration shall be excused on account of Force Majeure only if the Owner provides

to each of the Persons comprising Grantee written notice, in the manner and to the addresses set forth in Section 17, that an event of Force Majeure has occurred, which notice shall describe in reasonable detail the nature of the Force Majeure and the performance that is prevented or delayed as a result of the Force Majeure; provided, further, the period of Force Majeure shall be deemed to have commenced not earlier than the date which is ten (10) days prior to the date of the written notice.

“Governmental Authorities” means all governmental or quasi-governmental units, commissions, councils, boards, agencies, staffs or similar bodies having jurisdiction over a specified matter.

“Governmental Requirements” means, with respect to a specified matter, all laws, ordinances, statutes, regulations or other similar laws promulgated by Governmental Authorities having jurisdictions over that matter, and the terms and conditions of all permits and approvals issued by those Governmental Authorities required in connection with the matter.

“Grantor’s Organizational Documents” is defined in Section 24.

“Indemnified Parties” is defined in Section 14(b).

“Industrial Activities” means operations which include the storage, manufacturing and processing of agricultural or timber products, minerals extraction and production, treatment, packaging, wholesaling, fabrication, assembly and warehousing, but shall not be deemed to include, under any circumstance, operational and support uses ancillary to the Recreational Uses.

“Krofcheck Adjustment Agreement” means the Boundary Line Adjustment Agreement entered into effective as of December 30, 2010 by and between Dr. Joseph L. Krofcheck and The Canyons Golf Holdings, LLC, as evidenced by a Notice of Possible Boundary Line Adjustment Pursuant to Boundary Line Adjustment Agreement dated December 30, 2010 as Entry No. 00914113, in Book 2063, beginning at Page 1886 of the Official Records.

“Low Impact Permit” shall have the same meaning as is set forth for such term in Section 10-11-1 of the Summit County Code (as amended).

“Low Impact Permit for The Canyons Golf Course” means that certain Low Impact Permit issued by Summit County, acting in its governmental capacity, pursuant to: a letter dated September 10, 2010 by Adryan T. Slaght, Principal Planner (File # 080728) as the same was amended by a letter dated July 21, 2011 by Adryan T. Slaght, Principal Planner (File # 100815), and as the same may be further amended upon application of Grantor and approval of Summit County, acting in its governmental capacity.

“Management Agreement” means The Canyons Resort Village Management Agreement, recorded on December 15, 1999 in the Official Records as Entry No. 555285, in Book 1300, beginning at Page 1, as amended.

“Master Plats” means the East Willow Draw Development Area Master Plat, the Amended Frostwood Master Development Area Master Plat, the West Willow Draw Development Area Master Plat, and the Lower Village Development Area Master Plat, all as recorded in the Official Records and any amendments of such plats described in Section 25.

“Mortgage” means a recorded mortgage, deed of trust or other security agreement creating a lien on all, but not less than all, of the Golf Course Parcels as security for the payment of indebtedness incurred in connection with the construction of the Golf Course; provided, that except for a separate Mortgage to secure financing on a separate parcel created pursuant to Section 7(a) to facilitate financing of a “clubhouse,” pro-shop” or similar facility, a Mortgage may only be recorded with respect to all of the Golf Course Parcels and, in any event, may only be recorded with respect to the Golf Course Parcels if the Golf Course has not been Finally Abandoned. A **“Mortgage”** does not include financing that is secured only by a security interest in personal property or equipment located on but not constituting part of the real property comprising the Golf Course Parcels.

“Mortgagee” means a Person which is the mortgagee, beneficiary or other secured party under a Mortgage.

“Official Records” means the official records of the Summit County, Utah Recorder.

“Owner” means the Grantor and any subsequent Person or Persons that, at a specified time, is the owner of record in the Official Records of the fee interest in all of the Golf Course Parcels. Notwithstanding any applicable theory or law relating to a Mortgage, the term **“Owner”** shall not mean or include a Mortgagee unless and until such Person has acquired fee title to all of the Golf Course Parcels encumbered by the Mortgage pursuant to foreclosure, trustee's sale or any conveyance, arrangement or proceeding in lieu thereof. A ground lessee or other long-term tenant shall not be deemed to be the **“Owner”** for purposes of this Declaration.

“Open Space Uses” is defined in Section 5(f).

“Open Space Values” means the open space, buffer and recreational uses of the Golf Course Parcels contemplated by the SPA Development Agreement, which shall not preclude the Approved Uses.

“Operator” or **“Operators”** means the Person or Persons that are operating the Golf Course or any of the other Approved Uses on the Golf Course Parcels.

“Person” means a natural person, legal entity or trust.

“Primary Golf Improvements” is defined in Section 5(a).

“Recreational Uses” is defined in Section 5(a).

“RVMA Documents” is defined in Section 23.

“Shoulder Season” means the period of time from when the Ski Season has completed to the start of the Summer Golf Season, and the period of time from the end of the Summer Golf Season to the commencement of the Ski Season

“Ski Operator Uses” shall mean uses engaged in by the Mountain Member from time to time as part of the operation of Canyons Resort pursuant to that certain Ski Easement Agreement recorded as Entry No. 00803030, Book 1843, Page 1570 in the Official Records, other easements, licenses, or other interests held or leased by the Mountain Member on the Golf Course Parcels from time to time.

“Ski Season” means that period during which Canyons resort is open to the public for alpine skiing, as determined by the operator of the ski resort from time to time. Typically, that period is from the end of November to early April.

“Substantial Interference” means an interference, which is not de minimis, by the applicable uses permitted in Sections 5(a)(i), 5(a)(ii), 5(a)(v), 5(a)(vi), or 5(c)(i), which use has not been approved by Summit County in writing and prevents the play of an 18-hole golf round for a substantial portion of one or more days when the Golf Course would ordinarily be in operation. For clarity, any closure of the Golf Course on account of weather, insufficient demand, the fact that opening day for the Golf Course has not yet occurred or closing day for the Golf Course has occurred, or any reason other than the uses expressly identified above, shall not constitute a “Substantial Interference”.

“Summer Golf Season” means the period from Memorial Day to Labor Day.

“Taxes” is defined in Section 14(a).

“Willow Draw Creek Corridor” means the stream bed at “high water” of Willow Draw Creek which shall be further protected by a Declaration of Restrictions entered into and recorded in the Official Records by Grantor after Willow Draw Creek has been realigned and the surrounding area has been reconstructed in accordance with and as contemplated by Section 18.

2. **Grant of Easement.** Grantor hereby irrevocably grants and conveys to Grantee, a perpetual, non-exclusive easement and restriction over the Golf Course Parcels of the nature and character and to the extent set forth in this Declaration (the **“Easement”**).

3. **Purpose of Easement.** The purpose of the Easement is to protect in perpetuity the Open Space Values of the Golf Course Parcels, assure that the Golf Course Parcels remain as open space in perpetuity, and prevent any use of the Golf Course Parcels, other than the Approved Uses and any other activities, uses, enterprises, or adjustments if and to the extent approved pursuant to Section 6 of this Declaration, that may materially impair or interfere with Open Space Values. The Golf Course Parcels, as may be adjusted pursuant to Section 25, shall at all times constitute open space under, pursuant to, and as contemplated by, the SPA Development Agreement, and shall continue to be open space regardless of whether the Golf Course Parcels are, in fact, used as a golf course or for other Approved Uses.

4. Affirmative Rights of Grantee. Grantor grants the following rights to Grantee, which rights shall be in addition to, and not in limitation of, any other rights and remedies available to Grantee under the Canyons SPA Documents, as such other rights may only be enforced by Grantee in accordance with the terms and conditions of the Canyons SPA Documents:

(a) To preserve and protect the Open Space Values of the Golf Course.

(b) To prevent the Owner or any other Person (whether or not claiming by, through, or under Grantor or the Owner) from conducting any activity on or otherwise using the Golf Course Parcels in a manner that is inconsistent with this Declaration and to cause the Owner to restore any areas or features of the Golf Course Parcels that may be damaged by any such inconsistent activity or use.

(c) To enter upon the Golf Course Parcels with prior notice to the Owner of the Golf Course Parcels at reasonable times and in a reasonable manner, in order to monitor compliance with the terms of this Declaration.

(d) To enter onto the Golf Course Parcels for the purposes described in Section 4(c) without notice if Grantee determines that an emergency exists.

(e) To enforce this Declaration in the case of any breach or default by any Owner or Operator, or any of their respective Affiliated Persons by appropriate legal proceedings.

None of the affirmative rights under this Section 4 are intended to interfere with or adversely affect the Approved Uses (other than the operating of a Golf Course after Final Abandonment), taking into consideration the Parties' rights and obligations under Section 9, and, except in cases of an emergency, Grantee will make commercially reasonable efforts to provide Grantor with prior notice of Grantee's proposed actions or activities and will coordinate with Grantor so as to limit any impact on the Approved Uses.

5. Permitted Uses and Practices. Recognizing that the primary use of the Golf Course Parcels is for golf and open space uses, the following uses and practices are permitted on the Golf Course Parcels without the prior approval or consent of either or both of the Persons comprising Grantee (the "Approved Uses"):

(a) Recreational Uses. The following recreational activities ("Recreational Uses"):

i. Alpine and cross-country skiing and snowboarding, and the development, construction, operation, use, maintenance, repair, and replacement of related improvements for such skiing and snowboarding, including, without limitation: (A) conducting alpine and cross-country skiing and snowboarding operations; (B) making and grooming snow; (C) constructing and operating transportation systems to serve skier and snowboarders such as ski lifts, rope tows, carpet lifts, and related structures that cross the Golf Course Parcels, provided any such new transportation systems and related structures shall (1) not

be constructed during the Summer Golf Season unless such work is reasonably necessary and results in no interference with golf play, and (2) only be constructed during the Shoulder Season, if such work is reasonably necessary for the project and such work does not result in a Substantial Interference with use of the golf tees, fairways, greens and first cut of the rough (collectively, the **"Primary Golf Improvements"**) for golf play; (D) constructing and operating utilities to serve the ski resort, which utilities, if newly constructed shall be located underground, except with respect to components of the utility or facility that are typically located above ground (for example, transformers, junction boxes, and snowmaking valves), which new above-ground components shall not be sited on the Primary Golf Improvements; and (E) constructing and operating temporary structures such as small, movable shelters, huts and tents to provide services to patrons of the ski resort. All temporary structures permitted by clause (E) are to be located no earlier than the end of the Summer Golf Season and removed by the commencement of the Summer Golf Season of each year so as not to interfere with golf play.

ii. Notwithstanding the foregoing, no permanent above-ground, structural improvements shall be constructed for a so-called ski and snowboarding "terrain park", "ski-jump" or similar constructed facility. The foregoing clause shall not be deemed to prohibit temporary structural improvements outside of the Summer Golf Season, which do not result in Substantial Interference.

iii. Golfing and the development, construction, operation, use, maintenance, repair, and replacement of the Golf Course including, without limitation: (A) engaging in golf play; (B) developing, constructing, and operating all features, improvements, facilities, and amenities reasonably necessary or desirable for, or typically associated with, the Golf Course, including, without limitation, golf course irrigation systems, golf course utilities, golf cart paths, water coolers, planted and landscaped areas for golfing and a driving range and other golf practice areas; and (C) utilizing motorized and non-motorized golf carts, supply carts, and hospitality carts in connection with golf operation and play.

iv. Hiking, mountain biking, snowshoeing, dog-sledding, sleigh-riding, sledding, tubing, and similar non-motorized recreational, and similar sports activities.

v. Developing, constructing, outside of the Summer Golf Season, unless such activities would result in a Substantial Interference: (A) snow making and water storage equipment and facilities and related supporting improvements; (B) irrigation equipment, pipes, pump houses and related supporting improvements; (C) storm water ponds; and (D) drainage facilities and relating supporting improvements.

vi. Operating the activities and improvements set forth in Section 5(a)(v)(A), (B), (C) and (D) year-round, if necessary, and if there is no Substantial Interference with golf during the Summer Golf Season.

(b) Community and Event Uses. Temporary community and event activities typically conducted at four season mountain resorts including, without limitation, concerts, weddings, receptions, art fairs, farmers' markets, and other similar public and private temporary special events ("Community and Event Uses") and the construction, erection or use of temporary improvements or facilities in connection with such Community and Event Uses including, without limitation, tents, canopies, or trailers. In conducting multiple or simultaneous Community and Event Uses, or in conducting any Community and Event Uses that occupy or use a significant portion of the Golf Course Parcels, the Owner will coordinate and consult with each Person comprising Grantee to ensure that the number, scope, duration, and intensity of the Community and Event Uses as a whole do not materially and adversely burden or interfere with the Open Space Values with respect to the Golf Course Parcels, including use of the Primary Golf Improvements for golf play. If either Person comprising Grantee reasonably believes that Community and Event Uses, taken as a whole, do unreasonably burden or interfere with the Open Space Values, each Person comprising Grantee and the Owner will work together in good faith to reduce, relocate or otherwise alter the number, scope, duration, and intensity of the Community and Event Uses to reduce the burden or interference with the Open Space Values. Notwithstanding any other provision of this Section 5(b), any Community and Event Uses that operate for longer than fourteen (14) consecutive days, plus a reasonable period to set up and take down temporary improvements or facilities, must be approved pursuant to Sections 6(a) and 6(b); provided the preceding portions of this sentence shall not prohibit Community or Event Uses that occur for short periods on a regular weekly or monthly basis during particular times of the year, but not continuously, for a period longer than fourteen (14) days.

(c) Ancillary Uses.

i. The development, construction, maintenance, management and employee support operations (not including management and employee support operations that include incidental transportation of invitees and guests participating in Recreational Uses), repair and replacement purposes related to the Golf Course and other Recreational Uses, Community and Event Uses and Open Space Uses, including the storage and staging of equipment and materials in connection with such uses, the storage and staging of vehicles to the west of the Hole 17 green and the use and operation of motorized vehicles and motorized equipment (including, but not limited to, snow grooming equipment and snowmobiles). There shall be no storage of any equipment or materials on golf land during the Summer Golf Season which interferes in any way with golf play. There shall be no storage of snow cats or other moveable ski equipment on any golf hole during the Summer Golf Season, or outside the Summer Golf Season in a manner that results in a Substantial Interference with golf play.

ii. Using and operating non-motorized vehicles which do not require a power source other than the user in connection with Recreational Uses, Community and Event Uses and Open Space Uses.

iii. Using and operating motorized and non-motorized vehicles and equipment for emergency access and emergency rescue activities whether or not related to any other Approved Use; provided, however, such emergency access and emergency rescue activities shall not include a base station or facilities, such as a helicopter pad, for use in conducting emergency access and emergency rescue activities outside of The Canyons SPA.

iv. Constructing, operating, installing, using, maintaining, repairing, relocating, and replacing utilities and utility facilities on the Golf Course Parcels as contemplated and permitted by the Canyons SPA Documents, as otherwise necessary in connection with the Golf Course and other Recreational Uses, Community and Event Uses, and Open Space Uses, or for incidental, underground crossing of the Golf Course Parcels for development or operations contemplated by the Canyons SPA Documents; provided, however, that all construction of utilities which are unrelated to operation of the Golf Course shall occur outside the Summer Golf Season and the Owner shall repair or cause to be repaired, any disturbance, damage, or disruption to the Golf Course Parcels resulting from such activities. All newly constructed utilities on the Golf Course Parcels shall be located underground except with respect to components of the utility or facility that are typically located above ground (for example, transformers, junction boxes, and snowmaking valves) and any such new above-ground components shall not be sited on the Primary Golf Improvements. The foregoing requirements do not apply to existing utilities located above ground.

v. Constructing, operating, installing, using, maintaining, repairing, relocating, and replacing bridges, tunnels, and other related facilities on account of the Golf Course and other Recreational Uses, Community and Event Uses and Open Space Uses, provided any such facilities being installed for ski-related purposes shall be constructed outside of the Summer Golf Season.

vi. Constructing, operating, installing, using, maintaining, repairing, relocating, and replacing a pro-shop and/or a golf club house and other incidental buildings and related improvements that are reasonably necessary for and incidental to the Golf Course and other Recreational Uses, Community and Event Uses and Open Space Uses including, without limitation, restrooms, snack shops, maintenance and storage buildings.

vii. Constructing, operating, installing, using, maintaining, repairing, relocating, and replacing roads and walking, biking, and other trails, including a work road over, under, across, and through the Golf Course Parcels as depicted on the West Willow Draw Plat or as contemplated under that certain Work Road Access Easement and Declaration of Restrictions, dated December 30, 2010, and

recorded on December 30, 2010 in the Official Records as Entry No. 914119, in Book 2063, at Page 1955.

(d) Shoulder Season Substantial Interference. Notwithstanding anything in this Declaration to the contrary, any applicable uses permitted in Section 5 shall be permitted to result in Substantial Interference with golf play during the Shoulder Season (each period when a Substantial Interference is occurring, a "Shoulder Season Interference Period"); provided, that the total amount of such Shoulder Season Interference Periods, when aggregated with the number of days or portions of days being utilized for Priority Scheduling pursuant to Section 1 of that certain Public Play Protection Agreement, dated and recorded in the Official Records on September ___, 2014 (the "Public Play Agreement"), shall not exceed forty-five percent (45%) of the days in the applicable calendar month, and such Shoulder Season Interference Periods shall, to the extent applicable, reduce the monthly available tee times for Priority Scheduling under the Public Play Agreement on an hour-by-hour basis during the month of such Shoulder Season Interference Period. To the extent the Shoulder Season Interference Periods within a given Shoulder Season month exceed the forty-five percent (45%) limit for such month, such excess Shoulder Season Interference Periods shall, to the extent applicable, reduce the monthly available tee times for Priority Scheduling under the Public Play Agreement on a hour-by-hour basis for the immediately following month (or next month in which the Golf Course would ordinarily be operational if the immediately following month is not a Golf Course operational month).

(e) Signs. Placing and maintaining temporary and permanent signage for the following purposes:

- i. To state that the Golf Course Parcels are open space or otherwise provide notice of the purpose of the Easement or of the terms of this Declaration.
- ii. To identify trails, geographical or resort features or interpretive sites on or near the Golf Course Parcels.
- iii. To designate trails and directions to Recreational Uses, Community and Event Uses and Open Space Uses, or any other any activities, uses, or enterprises approved pursuant to this Declaration.
- iv. To state and provide notice of rules and regulations, safety, or hazardous conditions found on the Golf Course Parcels, including as may be necessary for compliance with the RVMA's established guidelines and rules and regulations for open space.
- v. To satisfy the rules and regulations and requirements of the RVMA or the Design Review Committee of the RVMA.

(f) Open Space Uses. Any and all activities and incidental improvements necessary for or typically associated with the development, preservation, enhancement, and maintenance of the Open Space Values of the Golf Course Parcels ("Open Space Uses"), including, without limitation:

i. Taking reasonable actions to maintain, repair, relocate, and replace native plant communities or wildlife habitat.

ii. Taking reasonable actions to construct, operate, install, use, maintain, repair, relocate, and replace existing paved and unpaved trails and new paved or unpaved trails contemplated by the Canyons SPA Documents or reasonably necessary to conduct Recreational Uses.

iii. Taking reasonable actions to construct, operate, install, use, maintain, repair, relocate, and replace water quality and resources.

iv. Taking reasonable actions to control diseased and problem animals.

v. Taking reasonable actions to remove brush and vegetation as necessary to minimize the risk of wildfire on the Golf Course Parcels and surrounding areas.

6. Prior Approval. If any provision of this Declaration requires the Owner to obtain the approval or consent of either or both of the Persons comprising Grantee prior to performing any activity, use, enterprise, or adjustment on the Golf Course Parcels, the Owner shall not have the right to conduct or perform, and shall not conduct or perform that act or undertake that activity, use, enterprise, or adjustment until the applicable notice and approval provisions of this Section 6 have been fully satisfied.

(a) Summit County Approval. Prior to the commencement of any activity, use, enterprise, or adjustment which does not comprise an Approved Use or which, by the express terms of this Declaration, requires the approval or consent of Summit County, acting as one of the Persons comprising the Grantee and not in its governmental capacity, the Owner of a Golf Course Parcel will first notify Summit County in writing (with a duplicate courtesy notice being provided to the RVMA) of the proposed activity, use, enterprise, or adjustment in the manner and to the addresses set forth in Section 17. The notice must inform Summit County, acting as a Grantee and not in its governmental capacity, of all material aspects of the proposed activity, use, enterprise, or adjustment. Summit County, acting as a Grantee and not in its governmental capacity, shall have thirty (30) days from the date such notice is received (as indicated by the registered or certified return receipt) to review and approve the proposed activity, use, enterprise, or adjustment, which approval may be withheld or denied if Summit County, acting as a Grantee and not in its governmental capacity, reasonably determines that the activity, enterprise, or adjustment could reasonably be anticipated to adversely impact (in a manner which is more than de minimis) the Golf Course Parcels, the Open Space Values, or is otherwise materially inconsistent with the purpose and/or provisions of this Declaration. Summit County shall provide written notice to the RVMA of any approval of a proposed activity, use, enterprise, or adjustment submitted by the Owner. Any approval of Summit County pursuant to this Section 6(a) may, pursuant to its express terms, be for a limited period of time and may, pursuant to its express terms, be subject to conditions which, if not satisfied, will cause such approval to be revoked either

automatically or with prior written notice. In addition, Summit County may, to the extent possible and feasible, inform the Owner how the proposed activity, use, enterprise, or adjustment may be modified to avoid adverse impact or otherwise conform with this Declaration. If Summit County neither approves nor disapproves the proposed activity, use, enterprise, or adjustment within the aforementioned thirty (30) day period, then the Owner shall send a second written request for approval (with a duplicate courtesy notice being provided to the RVMA). The failure of the County to respond within thirty (30) calendar days to any such second written request for approval pursuant to this Section 6(a) shall be deemed to constitute the denial or disapproval by Summit County, acting as a Grantee and not in its governmental capacity. All approvals, disapprovals or other actions of Summit County pursuant to this Section 6(a) shall be deemed to be approvals, disapprovals or actions of Summit County in its capacity as a Grantee, and not in its governmental capacity.

(b) RVMA Approval. Prior to the commencement of any activity, use, enterprise, or adjustment which does not comprise an Approved Use or which, by the express terms of this Declaration, requires the approval or consent of the RVMA, the Owner of a Golf Course Parcel will first notify the RVMA (with a duplicate courtesy notice being provided to Summit County) in writing of the proposed activity, use, enterprise, or adjustment in the manner and to the addresses set forth in Section 17. The notice must inform the RVMA of all material aspects of the proposed activity, use, enterprise, or adjustment. The RVMA shall have thirty (30) days from the date such notice is received (as indicated by the registered or certified return receipt) to review and approve the proposed activity, use, enterprise, or adjustment, which approval may be withheld or denied if the RVMA reasonably determines that the activity, enterprise, or adjustment could reasonably be anticipated to adversely impact (in a manner which is more than de minimis) the Golf Course Parcels, the Open Space Values, or is otherwise materially inconsistent with the purpose and/or provisions of this Declaration. Such thirty (30) day period shall be shortened to fifteen (15) days for short-term, temporary uses related to the Approved Uses. If, in the RVMA's reasonable judgment, the proposal presented by the Owner can be modified to avoid the adverse impact to the Golf Course Parcels, the Open Space Values, or otherwise comply with the purpose and provisions of this Declaration, then the RVMA's response shall, to the extent possible and feasible, inform the Owner if applicable, how the proposed activity, use, enterprise, or adjustment may be modified to conform with this Declaration. The RVMA shall provide written notice to Summit County of any approval of a proposed activity, use, enterprise, or adjustment submitted by the Owner. Any approval of the RVMA pursuant to this Section 6(b) may, pursuant to its express terms, be for a limited period of time and may, pursuant to its express terms, be subject to conditions which, if not satisfied, will cause such approval to be revoked either automatically or with prior written notice. If the RVMA neither approves nor disapproves of the proposed activity, use, enterprise, or adjustment within the aforementioned thirty (30) day period (or shorter applicable period), then the Owner shall send a second written request for approval. If such second request states on its face in all capital letters that failure to respond thereto within thirty (30) days shall be deemed approval, then the failure to respond within such second thirty (30) day period (or shorter applicable period) shall constitute the approval of the RVMA.

(c) Emergency Action. The Owner will not be obligated to send prior notice to either Person comprising Grantee, and neither Person comprising Grantee will be entitled to bring an action against the Owner for undertaking any prudent activity, use, enterprise, or adjustment in a bona fide emergency situation to prevent, abate, or mitigate the immediate threat of significant damage to the Open Space Values related to Golf Course Parcels. The Owner will notify both of the Persons comprising Grantee in writing as soon as practicable of any injury to the Golf Course Parcels caused by such events or the efforts to prevent, abate, or mitigate any damage caused by such events.

(d) Right to Monitor. After approving any activity, use, enterprise, or adjustment pursuant to this Section 6, both of the Persons comprising Grantee shall have the right to enter the affected Golf Course Parcels in accordance with the rights granted in Section 4 in order to verify continued compliance by Owner.

7. Prohibited and Conditional Uses and Practices. Except as and to the extent permitted by or as part of the Approved Uses, or except as contemplated by the Canyons SPA Documents, or as otherwise approved by the Persons comprising Grantee pursuant to Section 6, the following uses and practices are explicitly and conclusively deemed inconsistent with the purposes of this Declaration, and are prohibited or limited on the Golf Course Parcels unless and until the applicable notice and approval requirements of Section 6 have been fully satisfied:

(a) Subdivision. Except with the approval of both Summit County, acting as a Grantee and not in its governmental capacity pursuant to Section 6(a), and the RVMA pursuant to Section 6(b), the Owner shall not, and shall not permit any of its Affiliated Persons to, divide, subdivide, or take any action which creates an actual or *de facto* subdivision of any of the Golf Course Parcels; provided, neither Summit County, acting as a Grantee and not in its governmental capacity, nor the RVMA shall unreasonably withhold, condition, or delay an approval to any subdivision to create a separate parcel or parcels for a "clubhouse", "pro-shop", or similar facility that is reasonably necessary to facilitate separate financing of such a facility and a separate Mortgage on the "clubhouse" or "pro-shop" parcel.

(b) Ownership of Golf Course Parcels. Except as otherwise permitted by this Section 7(b), all of the legal and beneficial interests in the Golf Course Parcels shall be owned by a single Person at all times and shall not at any time be owned by more than one Person, for any reason, or through any mechanism or arrangement that results in ownership of all legal and beneficial interests by more than one person, such as, without limitation, a trust, co-tenancy arrangement, nominee or receiver. Notwithstanding the foregoing:

i. If the "clubhouse" or "pro-shop" is located on a separate Golf Course Parcel pursuant to and as permitted by Section 7(a) and a Mortgage is recorded with respect to the separate "clubhouse" or "pro-shop" parcel, then the "clubhouse" or "pro-shop" parcel may be owned by any Person which acquires such parcel at a foreclosure or trustee's sale. The foregoing provision shall not be construed as a restriction on ownership of the "clubhouse" or "pro-shop" if such use is conducted on a parcel other than a Golf Course Parcel.

ii. After Final Abandonment of the Golf Course and with the express written consent and approval of both Summit County, acting as a Grantee and not in its governmental capacity pursuant to Section 6(a), and the RVMA, pursuant to Section 6(b), the Golf Course Parcels may be owned by multiple Persons.

(c) Construction. Except with the approval of both Summit County, acting as a Grantee and not in its governmental capacity pursuant to Section 6(a) and the RVMA pursuant to Section 6(b), the Owner shall not construct or use (and shall take commercially reasonable efforts to prohibit any other Person from constructing or using) any structures or facilities on any of the Golf Course Parcels for use in human habitation or any Industrial Activities.

(d) Mineral Activities. Except pursuant to rights of record which have priority over this Declaration and except with the approval of both Summit County, acting as a Grantee and not in its governmental capacity pursuant to Section 6(a) and the RVMA pursuant to Section 6(b), the Owner shall not explore or extract (and shall take commercially reasonable efforts to prohibit any other Person from exploring or extracting) oil, gas, rock, gravel, sand, minerals, artifacts, or other materials found in, on, or under the Owner's Golf Course Parcels.

(e) Advertising Displays. Except (i) as required to protect health or safety of any Person or damage to any property, (ii) for directional and way-finding signage or (iv) otherwise with the approval of both Summit County, acting as a Grantee and not in its governmental capacity pursuant to Section 6(a) and the RVMA pursuant to Section 6(b), the Owner shall not, or permit any of its Affiliated Persons to, construct, maintain, lease, or erect any advertising, commercial signs or billboards on any of the Golf Course Parcels. If the party erecting signage or billboards under this Section 7(e) is subject to Design Review Committee Approval pursuant to the Management Agreement, such signage or billboards shall comply with the RVMA sign policies.

(f) Hazardous Waste. Owner shall not, or permit any of its Affiliated Persons to, store, dump, or dispose of any toxic and/or hazardous material on any of the Golf Course Parcels in any manner which is in violation of applicable environmental laws. This paragraph shall not be deemed to prohibit the lawful use and storage of hazardous materials, such as, for example, pesticides, fertilizers and fuels, in connection with the Approved Uses. This prohibition does not impose liability on Grantee, nor shall Grantee be construed as having liability as a "responsible party", under CERCLA or other similar state or federal statutes.

(g) Hunting. Except as contemplated as part of the Open Space Uses or except with the approval of both Summit County, acting as a Grantee and not in its governmental capacity pursuant to Section 6(a) and the RVMA pursuant to Section 6(b), the Owner shall not hunt or trap (and shall take commercially reasonable efforts to prohibit any other Person from hunting or trapping) for any purpose on any of the Golf Course Parcels other than in connection with rodent, predatory or other problem animal control.

(h) Motorized Vehicles. Except as permitted as part of the Approved Uses or except with the approval of both Summit County, acting as a Grantee and not in its governmental capacity pursuant to Section 6(a) and the RVMA pursuant to Section 6(b), the Owner shall not operate (and shall take commercially reasonable efforts to prohibit any other Person from operating) motorized vehicles and equipment on Golf Course Parcels.

(i) Alpine Slides. Except with the approval of both Summit County, acting as a Grantee and not in its governmental capacity and the RVMA pursuant to Section 6(b), the Owner shall not conduct (and shall take commercially reasonable efforts to prohibit any other Person from conducting) any activities or uses involving alpine slides, alpine coasters, or other luge-like rides.

8. Breach, Restoration and Remedies.

(a) Notice of Violation. If either Person comprising Grantee becomes aware of a violation of any restriction, covenant or agreement contained in this Declaration, or becomes aware of any damage or imminent threat of damage to the Open Space Values, whether precipitated by the Owner or by any of its Affiliated Persons or by any other Person, then either Person comprising Grantee may notify the Owner in writing of such violation, damage or imminent threat of damage (with a duplicate courtesy notice being provided to the other Person comprising Grantee).

(b) Corrective Actions. The Owner shall promptly commence to cure, or take commercially reasonable actions to cause any other Person to cure, the violation, restore and repair any damage or correct the conditions caused by such violation or threat of imminent damage, and shall complete or cause the other Person to complete such cure within thirty (30) days after the notice described in Section 8(a); provided, if the Owner promptly commences to cure, or to commence commercially reasonable actions to cause any other Person to cure, and proceeds in good faith and with commercially reasonable diligence to effect a cure or repair and restore such damage or if the Owner in good faith promptly provides written notice to each Person comprising Grantee of the Owner's plan that will, in the reasonable judgment of the Grantee based upon preserving the Open Space Values, cure the violation, restore and repair any damage or correct the conditions caused by such violation or threat of imminent damage and promptly proceeds to carry out such plan, the thirty (30) day period shall be extended for such period as is reasonably required to effect such cure or repair and restoration. In the event of an emergency or an immediate threat of injury to persons, or substantial damage to property, if the Owner fails to promptly initiate corrective action or thereafter fails to continue corrective action, then with further written notice to the Owner as soon as reasonably practical in such emergency, the notifying Grantee may (but shall not have the obligation to) take corrective action. The reasonable costs of such corrective action by Grantee shall be paid by Owner.

(c) Grantee Rights and Remedies. In the event the Owner undertakes or causes to be undertaken any activity on the Golf Course Parcels that requires prior approval by either or both of the Persons comprising Grantee and such approval or

approvals are not obtained consistent with Section 6 or as otherwise required under this Declaration, or where the Owner undertakes or causes to be undertaken any activity in violation of the terms of this Declaration, then, notwithstanding any other provision of this Declaration, either Person comprising Grantee shall have the right to obtain injunctive relief or writs from courts of competent jurisdiction to stop any unauthorized activities and/or force the restoration of that portion of the Golf Course Parcels affected by such activity to a similar or equivalent condition that existed prior to the unauthorized activity. Such restoration may include, without limitation, restoring soils, replanting suitable native vegetation, and/or taking such other action as Grantee deems necessary to achieve restoration. In such case, the costs of restoration shall be borne by the Owner or those of its successors or assigns against whom a judgment is entered.

(d) Equitable Enforcement. Either Person comprising Grantee is entitled to invoke the equitable jurisdiction of any court to enforce this Declaration including, without limitation, specific performance or injunction.

(e) Cumulative. The rights and remedies of Grantee set forth in this Declaration are cumulative.

(f) Control of Enforcement. Any, or all, of the rights and remedies of Grantee pursuant to this Declaration may be exercised and pursued by either Person comprising Grantee. Notwithstanding the foregoing, during such time as the RVMA owns any right, title or interest in the Golf Course Parcels or in Grantor or any Owner of the Golf Course Parcels, then in the event Summit County, acting as a Grantee and not in its governmental capacity proposes to exercise or does exercise any of the rights and remedies of Grantee, the RVMA shall not take any action inconsistent with the action taken by Summit County; provided, if Summit County does not exercise a right or remedy of Grantee with respect to a particular violation or default, the RVMA may do so unilaterally.

(g) Delay Not a Waiver. A delay in enforcement shall not be construed as a waiver of right of either Person comprising Grantee to enforce the terms of this Declaration.

9. Final Abandonment of Golf Course. If the Golf Course is Finally Abandoned, then the Owner and each Person comprising Grantee will arrive at an agreement to reasonably remediate any material risk to the general health, safety or welfare, or to the Open Space Values, caused by such Final Abandonment of the Golf Course which, for this purpose, at Owner's election, may or may not include the continuation of the improvements related to the Golf Course in contemplation of future resumption of golf play. Grantee acknowledges that in order to protect Grantor's investment in the Golf Course, an acceptable remediation agreement may, at Owner's election, include maintaining the Golf Course in a condition that allows Grantor, at its election, to restart the golf operations on the Golf Course Parcels; provided, such plan shall also include provisions to pay the cost of such maintenance. If the Owner and each Person comprising Grantee fail to agree upon a mutually acceptable remediation agreement and any Person comprising Grantee reasonably believes that Open Space Values are materially and adversely affected, either Person comprising Grantee may take action under Section 4 of this Declaration.

10. Costs, Taxes & Fees. The Owner shall have all responsibilities and shall bear all costs and liabilities of any kind related to the operation, upkeep, and maintenance of the Golf Course Parcels, including, without limitation, responsibility for the control of noxious weeds in accordance with all applicable Governmental Requirements. The Owner agrees to bear all costs of operation, upkeep and maintenance of the Golf Course Parcels it owns. The Owner shall pay any and all lawful taxes, assessments, fees, and charges levied by competent authority against or with respect to the Golf Course Parcels which it owns. If the Owner fails to control noxious weeds in accordance with applicable Governmental Requirements after notice from Grantee and a reasonable opportunity to cure, the Owner agrees to reimburse Grantee for such costs if Grantee elects to cure the same.

11. Assignment of Easement. The Owner may not transfer or assign any of its rights under this Declaration, other than to a Person who is a successor Owner of all of the Golf Course Parcels. Except as permitted by this Section 11, neither Person comprising Grantee may transfer or assign any of its rights under this Declaration, without the prior written consent of the Owner. Any transferee or assignee who receives such a transfer or an assignment without the prior written consent of the Owner shall have no rights under this Declaration. Notwithstanding anything to the contrary set forth above in this Section 11, Summit County, acting as a Grantee and not in its governmental capacity, may transfer or assign any or all of its rights or interests under this Declaration to the following Persons, without the consent or approval of, but with notice to, the Owner:

(a) To a county-wide department, county-wide agency of Summit County, which shall take the assignment other than in a governmental capacity; or

(b) Upon receipt of prior or simultaneous written acceptance by the RVMA, to the RVMA.

12. Covenants Run with the Land. This Declaration and the easements and covenants created by this Declaration are intended by the Grantor to be, and shall constitute, covenants running with the land as to each of the Golf Course Parcels, shall be binding upon each Owner and any Person who acquires or comes to have any interest in any of the Golf Course Parcels, and their respective grantees, transferees, lessees, heirs, devisees, personal representatives, successors, and assigns. This Declaration and all of the easements, covenants, provisions, and requirements hereof shall also inure to the benefit of Grantee and their successors, assigns and delegates permitted pursuant to Section 11. The Owner shall comply with, and all interests in all Golf Course Parcels shall be subject to, the terms of this Declaration. By acquiring, in any way coming to have an interest in, or occupying any of the Golf Course Parcels, the Person so acquiring, coming to have such interest in, or occupying any of the Golf Course Parcels, shall be deemed to have consented to and approved, and shall be bound by, each and every provision of this Declaration.

13. Amendments. The Owner, and each Person comprising Grantee may by mutual written agreement jointly amend this Declaration. Any such amendment shall be consistent with the purpose of this Declaration, shall not affect its perpetual duration, shall not permit residential development, the development of commercial facilities, or the development of Industrial Activities on the Golf Course Parcels to the extent such use was prohibited by this Declaration

prior to any such amendment, and shall not otherwise permit any impairment of the Open Space Values of the Golf Course Parcels. The foregoing prohibition shall not be construed as a limitation on the Approved Uses. Any such amendment shall be recorded in the Official Records. Nothing in this Section 13 shall require either Person comprising Grantee to agree to any amendment or to consult or negotiate regarding any such amendment. Notwithstanding anything to the contrary contained herein, Summit County, acting as a Grantee and not in its governmental capacity, and the RVMA may agree between themselves regarding the manner and extent of the exercise of the rights and remedies under this Declaration, and such agreement shall not be deemed to be an amendment of this Declaration.

14. Costs and Liabilities. The Owner retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of each Golf Course Parcel it owns, including the maintenance of adequate comprehensive general liability insurance coverage. If any liens arising out of any work performed for, materials furnished to, or obligations incurred by the Owner and any other Person related to work performed on or in connection with the Golf Course Parcels could result in the foreclosure of this Declaration, the Owner shall keep the Golf Course Parcels free of such liens.

(a) Taxes. The Owner shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Golf Course Parcels by competent authority (collectively "**Taxes**"), including any Taxes imposed upon, or incurred as a result of, the Easement, and shall furnish Grantee with satisfactory evidence of payment upon request.

(b) Hold Harmless. The Owner shall hold harmless, indemnify, and defend each of the Persons comprising Summit County and its officials, directors, officers and employees (collectively "**Indemnified Parties**") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands or judgments, including, without limitation, reasonable attorneys' fees, to the extent arising out of personal injury to or the death of any patrons of the Golf Course Parcels engaged in recreational activities on the Golf Course Parcels which claims arise against the Indemnified Parties solely as a result of Summit County's recorded interest under this Declaration and which are not related to any act or omission of the Indemnified Parties or the presence of any Indemnified Parties on the Golf Course Parcels.

15. Condemnation. The Declaration constitutes a real property interest immediately vested in Grantee. If the Declaration is taken, in whole or in part, by exercise of the power of eminent domain, Grantee shall be entitled to compensation for the value of the Declaration in accordance with applicable law; provided, all such proceeds shall be used to acquire other open space property or rights within Summit County, Utah.

16. Intentionally Deleted.

17. Notices. Any notice, demand, request, consent, approval, or communication that any Party to this Declaration desires or is required to give to the other Parties shall be in writing and shall be served either personally, by overnight courier, or sent by first class mail, postage prepaid, addressed as follows (or to such other address as a Party may designate):

To Grantor: The Canyons Golf Club, LLC
4000 The Canyons Resort Drive
Park City, Utah 84098
Attention: General Manager – Canyons Resort
Email: mgoar@vailresorts.com

With a copy to: Vail Resorts Management Company
390 Interlocken Crescent
Broomfield, Colorado 80021
Attn: Legal Department
Email: legalnotices@vailresorts.com &
MWarren@vailresorts.com

With a copy to: Shawn C. Ferrin, Esq.
Parson Behle & Latimer
201 South Main Street, Suite 1800
Salt Lake City, Utah 84111
Phone: 801-532-1234
Email: SFerrin@parsonsbehle.com

To summit County: Summit County
Summit County Attorney's Office
60 North Main Street
Coalville, Utah 84017
Attn: Jami R. Brackin, Esq.
Email: jbrackin@summitcounty.org

To RVMA: The Canyons Resort Village Association, Inc.
1790 Sun Peak Drive, Suite A-103
Park City, Utah 84098
Attention: Jennifer Guetschow
Email: jenniferg@thecanyonsrvma.com

With a copy to: Glen D. Watkins, Esq.
Jones Waldo Holbrook & McDonough PC
170 S. Main Street, Suite 1500
Salt Lake City, Utah 84101
Email: GWATKINS@joneswaldo.com

If Grantee transfers any rights under this Declaration in accordance with Section 11, such

Grantee shall cause such transferee to be added as an additional required notice party. A copy of any notice given to one or more Parties shall also be sent to all Parties.

18. Future Protections of Portions of the Golf Course Parcels. Immediately after the first to occur of abandonment of construction of the Golf Course contemplated by this Declaration or substantial completion of the construction of such Golf Course, Grantor will comply with the Willow Draw Creek obligations imposed by the U.S. Army Corps of Engineers ("Corps"), and to the extent required by the SPA Development Agreement and requested by Summit County acting in its governmental capacity, Grantor and Grantee will enter into a restriction agreement with respect to the applicable portions of the Golf Course Parcels in a form reasonably acceptable to Grantee and Grantor and in compliance with the SPA Documents to reflect such obligations imposed by the Corps. Notwithstanding the foregoing, Grantee agrees that, with the exception of those restrictions contemplated under this Section 18, as a result of an adjusted parcel under Section 25 or in the event this Declaration is wholly or partially rescinded or finally declared to be null, void or unenforceable, Grantor shall not be obligated to grant any additional rights or impose any additional deed restrictions for open space with respect to any Golf Course Parcels.

19. Compliance with Law. The Owner shall at all times including, without limitation, in connection with any Approved Use or any activity, use, enterprise, or adjustment actually approved, as required by this Declaration, by either or both of the Persons comprising Grantee pursuant to Section 6 of this Declaration or otherwise hereunder: (a) fully comply with all Governmental Requirements now in force, or which hereafter may be in force, of any lawful Governmental Authority having jurisdiction over the Golf Course Parcels or a specified activity including, without limitation, the Governmental Requirements of Summit County, acting in its governmental capacity; (b) obtain all required permits, approvals, consents, licenses and similar approvals and consents of Summit County, acting in its governmental capacity, and the RVMA or the Design Review Committee of the RVMA; and (c) fully comply with all of the terms of the applicable Canyons SPA Documents. Notwithstanding any other provision of this Declaration, a consent or approval by Summit County, acting as a Grantee and not in its governmental capacity, granted pursuant to this Declaration shall not be binding on Summit County, acting in its governmental capacity, and shall not be deemed a waiver or satisfaction of any Governmental Requirement of Summit County.

20. Miscellaneous.

(a) Partial Invalidity. If any provision of this Declaration, or the application of this Declaration, or the application of this Declaration to any Person or circumstance is found to be invalid, the remainder of the provisions of this Declaration, and the application of such provisions to Persons or circumstances other than those to which it is found to be invalid, shall not be affected thereby.

(b) Titles. Section and Subsection titles and subtitles are for convenience only and shall not be deemed to have legal effect. References in this Declaration to a Section shall be deemed to be a reference to the corresponding Section of this Declaration unless the context refers to another agreement, instrument or document.

(c) Construction. Each of the Parties acknowledges that it has reviewed and revised this Declaration with the assistance of counsel, and that no rule of construction resolving ambiguities against the drafting party shall be employed in interpreting this Declaration.

(d) Governing Law. This Declaration will be interpreted and construed in accordance with applicable Utah law.

(e) Entire Agreement. This Declaration sets forth the entire agreement of the parties. It is intended to supersede all prior discussions or understandings.

(f) Effective Date. The effective date of this Declaration will be the date signed by all Parties.

(g) Merger. The Parties intend that this Declaration will not merge, it being the intent of the Parties that the Declaration shall never be extinguished but remain in full force enjoining Grantor or its successor in interest to perpetually comply with its terms and conditions.

(h) Change of Conditions. The fact that any use of the Golf Course Parcels expressly prohibited by this Declaration or otherwise determined inconsistent with the purpose of this Declaration may become significantly more valuable or economical than the Approved Uses, or that neighboring properties may in the future be put entirely to uses inconsistent with this Declaration, has been considered by Grantor in granting this Declaration. It is Grantor's belief that any such changes will increase the public's benefit and interest in the continuation of this Declaration, and it is the intent of both Grantor and Grantee that any such changes not be considered circumstances sufficient to terminate this Declaration, in whole or in part. In addition, the inability to carry on any or all of the Approved Uses, or the unprofitability of doing so, shall not impair the validity of this Declaration or be considered grounds for its termination.

(i) Restriction on Liens; Declaration Superior. Any Mortgage, lien, judgment, or other security interest against any of the Golf Course Parcels hereafter shall only be valid and enforceable if and only to the extent it secures the loan obligations of the Owner of the Golf Course Parcels to pay the costs and expenses of constructing the Golf Course and/or the "clubhouse", "pro-shop", or similar facility, and the costs of such loan or loans. In all events such permitted Mortgage, lien, judgment, or other security interest shall be subordinate to this Declaration and in no way enable the holder of such interest or their successors in interest to breach the terms of this Declaration. Any unauthorized mortgage, deed of trust, or other security agreement purporting to create a lien on any or all of the Golf Course Parcels shall be null and void.

(j) Third Party Beneficiaries. This Declaration does not and is not intended to confer any rights or remedies upon any Person other than the signatories and their successors and assigns.

(k) Easement Perpetual. This Declaration is perpetual.

21. Recordation. Summit County, acting as a Grantee and not in its governmental capacity, shall record this Declaration in timely fashion in the Official Records, and either Person comprising Grantee may re-record this Declaration or any notice or memorandum of this Declaration at any time or from time to time as it may deem necessary or appropriate to preserve and give notice of Grantees' rights in this Declaration.

22. Status of Summit County; Certain Other Reservations and Conditions. As one of the Persons comprising Grantee under this Declaration, Summit County is acting, and at all times will be acting, in a capacity other than in its governmental capacity – i.e., Summit County is also a Governmental Authority having jurisdiction over the Golf Course Parcels and, as a Governmental Authority, is not bound by this Declaration and may have Governmental Requirements that must be fully satisfied regardless of any approval or consent of Grantee. Notwithstanding any approval of Grantee pursuant to this Declaration (including any approval of Summit County, acting in its capacity as Grantee), all Governmental Requirements of Summit County shall continue to be applicable to the Golf Course Parcels and the fact that Summit County or any other Person acting as Grantee provides its approval or consent pursuant to Section 6 or otherwise in accordance with this Declaration shall not obviate or affect the necessity of complying with any and all Governmental Requirements of Summit County. Notwithstanding any other term or provision of this Declaration, to the extent not previously reserved, and subject to any terms and limitations in Section 5.3 of the SPA Development Agreement, Summit County, acting in its capacity as a governmental authority, and to the extent allowed by law, reserves all police and regulatory powers, and all governmental legislative, administrative and enforcement authority with respect to zoning, subdivision, development, growth management, platting, environmental, open space, transportation and other land use plans, policies, ordinances and regulations.

23. Reserved Rights and Remedies of RVMA. The Owner is a “member “of the RVMA, and the Golf Course Parcels comprise lands that are subject to (1) the terms, conditions, requirements and other provisions of the Management Agreement and any provision of the SPA Development Agreement under which the RVMA or its Design Review Committee is granted any authority, powers, rights or remedies, and the rules and regulations from time to time adopted by the RVMA and/or its Design Review Committee (collectively, the “**RVMA Documents**”), and (2) may be subject to the jurisdiction of the RVMA and its Design Review Committee, if applicable, and the applicable actions, recommendations, decisions, rules and regulations taken or issued thereby, and all of the rights and remedies granted to or otherwise available to the RVMA and its Design Review Committee under the RVMA Documents. This Declaration, and the rights granted to and the restrictions placed on the Owner hereunder are in all respects subject and subordinate to the terms, conditions, rights, remedies and other provisions of the RVMA Documents, and the Parties intend that this Declaration shall not in any manner (1) waive, relinquish, terminate, limit, diminish or condition, or obviate compliance with any requirements or obligations of the Owner with the RVMA Documents, or limit, diminish, restrict or condition the authority, powers, rights, remedies, processes or procedures of the RVMA or its Design Review Committee under the RVMA Documents, or (2) waive, limit or condition the right or authority of the RVMA or its Design Review Committee, if applicable, to initiate or participate, or take any position (whether contrary or in conflict with the interest of any other Party or Affiliated Persons), in or in connection with any land use or other application or any governmental or judicial process, hearing, proceeding or action relating to or affecting the

matters that are the subject of this Declaration, or (3) amend or modify the RVMA Documents and in the event of any conflict between any of the RVMA Documents and this Declaration, the RVMA Documents shall control.

24. Grantor's Organizational Documents. Summit County, acting as a Grantee and not in its governmental capacity, hereby: (1) acknowledges that the RVMA is a member of Grantor; and (2) agrees that any actions taken, or any rights or remedies exercised, by the RVMA under the Grantor's Organizational Documents shall not constitute the taking of action or the exercise of any rights or remedies by the RVMA under this Declaration. Grantor hereby: (1) acknowledges that the RVMA is a member of Grantor; (2) agrees that nothing set forth in this Declaration shall limit, waive, modify, or adversely affect any of the rights or remedies of the RVMA or its exercise thereof under Grantor's articles of organization or its operating agreement, as the same may be amended from time to time (collectively, "Grantor's Organizational Documents"); and (3) agrees that any actions taken, or any rights or remedies exercised, by the RVMA under the Grantor's Organizational Documents shall not constitute the taking of action or the exercise of any rights or remedies by the RVMA under this Declaration.

25. Boundary Adjustments.

(a) Adjustments to Golf Course Parcels. Except as set forth in Section 25(b), the legal descriptions of the Golf Course Parcels shall be modified for purposes of this Declaration if and to the extent the boundaries of the Golf Course Parcels are adjusted pursuant to the following subsections:

i. Krofcheck Adjustment Agreement. If the boundaries of the Golf Course Parcels are required to be adjusted pursuant to the terms the Krofcheck Adjustment Agreement, then the boundaries of the Golf Course Parcels shall be modified for purposes of this Declaration upon satisfaction of all Governmental Requirements and compliance with the terms of the Krofcheck Adjustment Agreement, but without the approval of both of the Persons comprising Grantee pursuant to Section 6.

ii. Other Adjustments. If the boundaries of the Golf Course Parcels are adjusted pursuant to any boundary or easement line adjustment or plat amendment that is processed and approved in accordance with all Governmental Requirements, then the boundaries of the Golf Course Parcels shall be modified for purposes of this Declaration upon satisfaction of all Governmental Requirements, but only with the approval of Grantor and both of the Persons comprising Grantee pursuant to Section 6, which approval will not, for the purpose of this Section 25(a)(ii) only, and notwithstanding any other review and approval standard specified in Section 6, be unreasonably withheld, conditioned or delayed by either Person comprising Grantee.

iii. Substantially Equivalent Plat Amendment Adjustments. Upon written request of the Owner of the Golf Course Parcels, if the boundaries of the Golf Course Parcels may be adjusted in compliance with all Governmental Requirements and with the approval of both of the Persons comprising Grantee

pursuant to Section 6, which approval shall, except as specified below in this Section 25(a)(iii), be governed by Section 6; provided, notwithstanding any other review and approval standard specified in Section 6, such approval will not be unreasonably withheld, conditioned, or delayed by either Person comprising Grantee if, but only if: (i) as a result of additional land being included in the Golf Course Parcels, there is not a substantial decrease in the total number of acres encumbered by this Declaration; and (ii) the quality of the Open Space Values of any land to be added as part of the Golf Course Parcels is reasonably comparable to the quality of the Open Space Values of any land to be released from the Golf Course Parcels.

(b) Coordination With Section 19. No adjustment shall be made with respect to specific areas actually covered by additional open space declarations pursuant to Section 19 or covered or to be covered by the Section 404 Stream Alteration Permit issued by the Corps to Grantor on May 5, 2011, as amended, supplemented or replaced or a declaration of restriction required by the Corps.

(c) Further Assurances. Upon the occurrence of any adjustment of the legal descriptions of the Golf Course Parcels pursuant to Section 25(a), Grantor and each Person comprising Grantee shall, at the written request of any of them, promptly execute and deliver an amendment to this Declaration to ratify, affirm and, if applicable, release the actual land covered by this Declaration.

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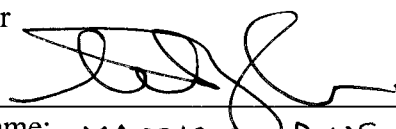
IN WITNESS WHEREOF, Grantor and Grantee execute this Declaration as of the Effective Date.

GRANTOR:

THE CANYONS GOLF CLUB, LLC,
a Utah limited liability company

By: ASC Utah LLC, a Delaware limited liability
company
Its: Manager

By: TCFC Finance Co LLC, a Delaware limited
liability company
Its: Manager

By: 
Print Name: MAURICIO PONS
Title: AUTHORIZED OFFICER

GRANTEE:

SUMMIT COUNTY,
a political subdivision of the State of Utah

By: _____
Its: County Manager

ATTEST:

Summit County Clerk

GRANTEE:

THE CANYONS RESORT VILLAGE
ASSOCIATION, INC.,
a Utah nonprofit corporation

By: _____
Print Name: _____
Title: _____

STATE OF Utah)
COUNTY OF SUMMIT; ss.

The foregoing instrument was acknowledged before me this 22nd day of September, 2014 by MAURICIO PONS, the Authorized Officer of The Canyons Golf Club, LLC, a Utah limited liability company, by ASC Utah LLC, a Delaware limited liability company, it Manager, by TCFC Finance Co LLC, a Delaware limited liability company, it Manager

[Signature]
Notary Public
Residing at: Park City

My Commission Expires: 06/13/2016



STATE OF UTAH)
COUNTY OF) : ss.

The foregoing instrument was acknowledged before me this _____ day of September, 2014 by _____, the Summit County Manager.

Notary Public
Residing at: _____

My Commission Expires:

IN WITNESS WHEREOF, Grantor and Grantee execute this Declaration as of the Effective Date.

GRANTOR:

THE CANYONS GOLF CLUB, LLC,
a Utah limited liability company

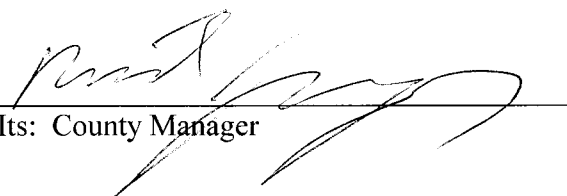
By: ASC Utah LLC, a Delaware limited liability
company
Its: Manager

By: TCFC Finance Co LLC, a Delaware limited
liability company
Its: Manager


By: _____
Print Name: _____
Title: _____

GRANTEE:

SUMMIT COUNTY,
a political subdivision of the State of Utah

By: 
Its: County Manager

ATTEST


Summit County Clerk



GRANTEE:

THE CANYONS RESORT VILLAGE
ASSOCIATION, INC.,
a Utah nonprofit corporation

By: _____
Print Name: _____
Title: _____

STATE OF)
 : ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this _____ day of September, 2014 by _____, the _____ of The Canyons Golf Club, LLC, a Utah limited liability company, by ASC Utah LLC, a Delaware limited liability company, it Manager, by TCFC Finance Co LLC, a Delaware limited liability company, it Manager

Notary Public
Residing at: _____

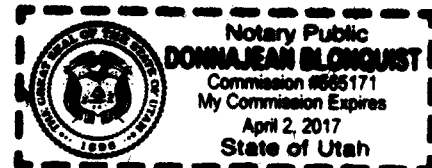
My Commission Expires:

STATE OF UTAH)
 : ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this 23rd day of September, 2014 by Robert Jasper, the Summit County Manager.

Donna Jean Blonquist
Notary Public
Residing at: Summit County

My Commission Expires:



IN WITNESS WHEREOF, Grantor and Grantee execute this Declaration as of the Effective Date.

GRANTOR:

THE CANYONS GOLF CLUB, LLC,
a Utah limited liability company

By: ASC Utah LLC, a Delaware limited liability
company
Its: Manager

By: TCFC Finance Co LLC, a Delaware limited
liability company
Its: Manager

By: _____
Print Name: _____
Title: _____

GRANTEE:

SUMMIT COUNTY,
a political subdivision of the State of Utah


By: _____
Its: County Manager

ATTEST:

Summit County Clerk

GRANTEE:

THE CANYONS RESORT VILLAGE
ASSOCIATION, INC.,
a Utah nonprofit corporation

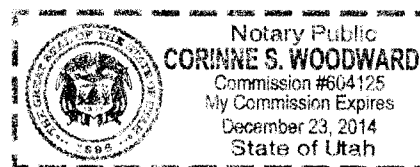
By: 
Print Name: Jennifer Guetschow
Title: Executive Director

STATE OF Utah)
COUNTY OF Summit : ss.

The foregoing instrument was acknowledged before me this 23 day of September, 2014 by Jennifer Guetschow the Executive Director of The Canyons Golf Club, LLC, a Utah limited liability company, by ASC Utah LLC, a Delaware limited liability company, it Manager, by TCFC Finance Co LLC, a Delaware limited liability company, it Manager

[Signature]
Notary Public
Residing at: Park City, UT

My Commission Expires: 12/23/14



STATE OF UTAH)
: ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this _____ day of September, 2014 by _____, the Summit County Manager.

Notary Public
Residing at: _____

My Commission Expires:

**SUBORDINATION BY
SNYDERVILLE BASIN SPECIAL RECREATION DISTRICT**

The Snyderville Basin Special Recreation District, a special service district organized under the laws of the State of Utah, hereby subordinates any and all of its rights and easements granted to it under the Snyderville Basin Special Recreation District Regional Trails Agreement (originally Exhibit I.2.3 to the SPA Development Agreement), recorded May 20, 2010 as Entry No. 899057, in Book 2032, beginning at Page 1797 in the official records of Summit County, Utah, as amended and supplemented from time to time, to any and all of the terms, covenants, provisions, and requirements set forth in this Declaration.

DATED: Sept 24th, 2014.

Recreation District Contact Info:

Snyderville Basin Special
Recreation District
5715 Trailside Drive
Park City, Utah 84098
Phone: (435) 649-1564
Fax: (435) 649-1567
Email:

**SNYDERVILLE BASIN SPECIAL
RECREATION DISTRICT**, a special service
district organized under the laws of the State of
Utah

By: *Rena Jordan*
Name: Rena D. Jordan
Title: District Director

STATE OF UTAH)
COUNTY OF Summit) : ss.

The foregoing instrument was acknowledged before me this 24th day of September, 2014, by Rena Jordan, as District Director of Snyderville Basin Special Recreation District, a special service district organized under the laws of the State of Utah.

Stacy Carpenter
NOTARY PUBLIC
Residing at: Park City, Utah

My Commission Expires:

February 24, 2016



EXHIBIT "A"
TO
DECLARATION OF OPEN SPACE EASEMENTS
AND RESTRICTIONS
(Golf Course Parcels)

LEGAL DESCRIPTION OF THE GOLF COURSE PARCELS

The real property referred in the foregoing instrument as the Golf Course Parcels are located in Summit County, Utah, and are more particularly described as follows:

Lower Village Golf Course Parcels:

All of Parcels LV2A and LV2B, LOWER VILLAGE DEVELOPMENT AREA MASTER PLAT; according to the Official Plat thereof, on file and of record in the Office of the Summit County Recorder; and Parcel LV3, LOWER VILLAGE DEVELOPMENT AREA MASTER PLAT, LV3 Amended; according to the Official Plat thereof, on file and of record in the Office of the Summit County Recorder. *LV DAM - LV2A, LV DAM - LV2B*
LV DAM - LV3 - A M

East Willow Draw Golf Course Parcels:

All of Parcels EWD1 and EWD2, EAST WILLOW DRAW DEVELOPMENT AREA MASTER PLAT; according to the Official Plat thereof, on file and of record in the official records of the Summit County, Utah Recorder. *EWD - EWD1, EWD - EWD2*

West Willow Draw Golf Course Parcels:

All of Parcels WWD1 and WWD2, WEST WILLOW DRAW DEVELOPMENT AREA MASTER PLAT; according to the Official Plat thereof, on file and of record in the official records of the Summit County, Utah Recorder. *WWDDAM - WWD1, WWDDAM - WWD2*

Frostwood Golf Course Parcels:

All of Parcels A, B, and C, FIRST AMENDED MASTER DEVELOPMENT PLAT OF FROSTWOOD, A PLANNED COMMUNITY; according to the Official Plat thereof, on file and of record in the official records of the Summit County, Utah Recorder.

FRSTW - A - 1AM, FRSTW - B - 1AM, FRSTW - C - 1AM