



W2383712

WHEN RECORDED, PLEASE RETURN TO:

Wolf Creek Properties, LC
3923 North Wolf Creek Drive
Eden, Utah 84310

10828MNT

E# 2383712 PG 1 OF 11
ERNEST D ROWLEY, WEBER COUNTY RECORDER
07-JAN-09 1029 AM FEE \$41.00 DEP SC
REC FOR: METRO NATIONAL TITLE
ELECTRONICALLY RECORDED

**DECLARATION OF COVENANT
REGARDING MANDATORY CLUB MEMBERSHIP**

THIS DECLARATION OF COVENANT REGARDING MANDATORY CLUB MEMBERSHIP (the "Covenant") is made this 5th day of January 2009, by WOLF CREEK PROPERTIES, LC, a Utah limited liability company, behalf of itself, its successors-in-title, and assigns (the "Declarant").

Recitals:

A. Declarant is the developer of a master planned community located in Weber County, Utah and known as Wolf Creek Utah ("Wolf Creek Utah"). Declarant is also the "Declarant" under that certain Master Declaration of Covenants, Conditions and Restrictions for Wolf Creek Resort made as of May 15, 2002, and recorded October 18, 2002, as Entry No. 1882728 in Book 2275 at Page 460 of the official records of Weber County, Utah (such Declaration, as amended and supplemented, is referred to in this Covenant as the "Master Declaration").

B. Declarant is the owner of the residential lots described on Exhibit A to this Covenant (each being individually referred to herein as a "Lot" and collectively as the "Lots"), which are a portion of the property submitted to the Master Declaration.

C. Declarant is also the owner of the real property described on Exhibit B to this Covenant (the "Club Property"), which it has developed with private golf, social, and other recreational facilities (the "Club Facilities") owned by Declarant and operated as the Club at Wolf Creek Utah (the "Club"). The Lots are situated in close proximity to the golf course or other facilities on the Club Property.

D. By this Covenant, Declarant desires to provide for issuance of a Club Resort Membership (as described below) in the Club for each Lot, and to establish the obligation of the owner(s) of each Lot to pay such membership deposits, periodic dues, and other charges for the Club Resort Membership as the Club may establish from time to time, subject to the terms and conditions of this Covenant.

NOW, THEREFORE, Declarant hereby declares as follows:

**Article I
Declaration of Intent and Binding: Effect**

Declarant, as the owner of the Lots and the Club Property, hereby declares that all of the Lots and all of the Club Property shall be held, sold, and conveyed subject to the covenants and conditions contained herein, which shall run with the title to all the Lots and the Club Property. This Covenant shall be binding upon all persons having any right, title, or interest in any portion of the Lots or the Club Property, their heirs, successors, successors-in-title, and assigns and shall inure to the benefit of the owners of each portion of the Lots and the Club Property, except as otherwise expressly provided or limited herein.

Article II
Club Resort Memberships

2.1 **Membership Deposit: Issuance of Memberships.** Within fifteen (15) days after taking title to a Lot, the owner(s) of such Lot (each, an "Owner") shall pay a membership deposit to Declarant or such other person as Declarant or then owner of the Club Property may designate ("Club Operator"), in an amount equal to the membership deposit then being charged by the Club Operator for a Club Resort Membership (or, if such category of membership no longer exist the category of existing standard membership with minimum use privileges in the Club) (the "Membership Deposit") and shall execute a membership agreement, in such form as the Club Operator shall provide (as changed or modified from time to time, the "Membership Agreement"), documenting the amount of such Membership Deposit and acknowledging certain matters set forth herein and otherwise relating to the operation of the Club and the use of the Club Property and Club Facilities. The Membership Agreement may provide for payment of the Membership Deposit in installments, in which case the Owner of the Lot shall be obligated to pay the balance in accordance with such Membership Agreement and shall execute such documents as the Club Operator may require acknowledging and evidencing such obligation. Upon receipt of the same, the Club Operator shall cause a Resort Membership (as outlined in the Club's membership plan) (a "Club Resort Membership") to be issued to the owner(s) of each Lot ("Owner") granting the Authorized Users (as defined below) a revocable personal license to use certain (but not all) Club Facilities as outlined in the Membership Agreement for a Club Resort Membership. Only one Club Resort Membership shall be issued per Lot. If more than one person holds title to the Lot, the Club Resort Membership will be issued to all co-owners jointly; however, the co-owners shall jointly designate one co-owner (or two co-owners who are legally married or reside together in the same household) as the primary Member for purposes of exercising all membership privileges hereunder and under the Club's bylaws. If an Owner chooses to purchase a premium membership in the Club, such membership shall satisfy the obligations of the Owner to purchase a Club Resort Membership under this Section 2.1. Notwithstanding anything to the contrary, RMH Management, Inc., an Arizona corporation ("RMH"), the original purchaser of the Lots from Declarant, shall have no obligation to purchase a Club Resort Membership for any Lot unless RMH has a dwelling unit constructed on such Lot, holds title to the Lot and allows such dwelling unit to be occupied by any person. Any grantee of a Lot from RMH shall be deemed to be an "Owner" for all purposes hereunder and shall be obligated to purchase a Club Resort Membership as provided in this Covenant.

2.2 **Exercise of Membership Privileges.** The "Authorized Users" of a Club Resort Membership shall be only those persons authorized under the Membership Agreement. The use of the Club Property or Club Facilities by anyone other than an Owner and the members of his or her household as would be authorized to enjoy the use privileges of the membership without additional charge under the terms of the Membership Agreement shall be subject to payment of guest fees in such amount as the Club may establish from time to time. All privileges of Club Resort Membership shall be limited to operating hours and subject to payment of such charges as the Club Operator may establish. Such privileges shall also be subject to such membership policies and rules as the Club Operator may establish and modify from time to time. Nothing herein shall obligate the Club Operator or the owner of the Club Property and Club Facilities to offer or maintain any particular facilities or food and beverage service nor shall anything herein dictate the level of service or hours of operation. The Club Operator may determine at anytime to discontinue or restrict the Club membership program, all as provided in the Membership Agreement. The obligations of the Club Operator upon any restriction or discontinuance of the Club program shall be governed solely by the Membership Agreement and the Club Operator shall have no liability to any Owner pursuant to this Covenant or any other document.

2.3 **Term of Memberships; Covenant to Maintain.** The Owner(s) of each Lot shall maintain the Club Resort Membership issued for their Lot pursuant to Section 2.1 in good standing as long as they

hold title to the Lot. Such Club Resort Membership shall automatically terminate, as to the Owner of each Lot, when such person ceases to be the owner of record; title to the Lot; however, a former Owner shall remain obligated for all charges incurred on account of such membership prior to such termination. Upon transfer of title to a Lot, the Club Resort Membership held by the previous Owner shall be deemed resigned and upon payment of the Membership Deposit required under Section 2.1 by the new Owner, the Club Operator shall repurchase the Club Resort Membership from the previous Owner and reissue it to the new Owner(s), all pursuant to the Membership Agreement; provided, the Club Operator shall have no obligation to repurchase a resigned Club Resort Membership until the new owner of the Lot has executed a Membership Agreement with the Club and has paid the required Membership Deposit in full.

2.4 No Ownership Interest or Vested Rights in Club Facilities; Waiver. Each Owner, by accepting title to a Lot, acknowledges that membership in the Club allows a member to use only those Club Facilities referred to in the Membership Agreement as applicable to such membership category, all in accordance with the Membership Agreement and the Club's rules and regulations. A Club Resort Membership does not include access to all of the Club Property or Club Facilities. Membership in the Club is not an investment in the Club Operator or Declarant, or the Club Property or Club Facilities, and does not give a member a vested or prescriptive right or easement to use the Club Property or Club Facilities, all of which are waived. Membership in the Club does not provide a member with an equity or ownership interest or any other property interest in the Club Operator, Declarant the Club Property or the Club Facilities. A member acquires only a revocable personal license to use the Club Property and Club Facilities in accordance with the terms and conditions of the Membership Agreement and rules and regulations, as the same may be amended from time to time. All rights and privileges of members under the Membership Agreement are subordinate to the lien of any mortgage encumbering the Club Property and Club Facilities from time to time. No Owner shall have, claim or assert any such interest in any Club Property and Club Facilities or other property of Declarant arising out of or relating in any way to this Covenant, a Membership Agreement or the Club membership program.

2.5 Modification or Termination of Club Membership Plan. The Club Operator reserves the right, in its sole discretion, to modify or terminate the Club membership plan and the rules and regulations, to reserve memberships, to sell, lease or otherwise dispose of the Club Property and/or Club Facilities in any manner whatsoever and to any person whomsoever, to add, issue, modify or terminate any type, category or class of membership, to discontinue operation of any or all of the Club Property and Club Facilities, to convert the Club into a member-owned club, and to make any other changes in the terms and conditions of membership or in the Club Property and Club Facilities available for use by members. In the event of termination of the membership plan, termination of any category of membership or the discontinuance of operation of all or substantially all of the Club Property and Club Facilities or facilities, the affected members will be entitled to a refund of the Membership Deposit to the extent provided in the Membership Agreement. In the event that the Club Property is sold and the buyer assumes liability for the repayment of the Membership Deposit, the Owner(s) shall look solely to the new owner of the Club Property for repayment of the Membership Deposit and the seller of the Club Property shall be released from all liability for the repayment thereof.

Article III **Obligation to Pay Membership Fees**

3.1 Covenant to Pay. Each Owner, by accepting title to a Lot, covenants and agrees to pay to the Club Operator the Membership Deposit described in Section 2.1, as well as assessments, annual dues, and minimum usage fees in such amount as the Club Operator shall specify from time to time.

3.2 **Payment.** Each Owner, by accepting a deed to a Lot, is deemed to covenant and agree to pay in a timely manner all fees and charges and other amounts authorized by this Covenant and any other charges incurred by such Owner and such Owner's Authorized Users of the Club Resort Membership ("**Membership Fees**"). All such Membership Fees, together with interest (computed from its due date at a maximum rate of 18% per annum or such higher rate as the Club Operator may establish, subject to the limitations of Utah law), late charges, costs, and reasonable attorneys' fees, shall be the personal obligation of the Owner. Upon a transfer of title to a Lot, the grantee shall be jointly and severally liable with the grantor for any Membership Fees due at the time of conveyance. The Club Operator's failure to establish Membership Fees or to notify Owners of the Membership Fees shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay Membership Fees.

3.3 **Lien for Membership Fees.** Subject to any limitations imposed by Utah law, the Membership Fees shall also constitute a lien on the Lot against which they are levied from the time such Membership Fees become due until paid. The lien shall also secure payment of interest (subject to the limitations of Utah law), late charges, and costs of collection (including attorneys' fees, lien fees, and administrative costs). Such lien shall be superior to all other liens, except any lien of Wolf Creek Resort Master Association, Inc. pursuant to the Master Declaration, the lien of any mortgage or deed of trust in favor of Declarant, and the lien or charge of any recorded first mortgage or deed of trust (meaning a recorded mortgage or deed of trust with priority over other mortgages and deeds of trust) made in good faith and for value, and those deemed by Utah law to be superior. The Club Operator may enforce such lien, when any Membership Fee is delinquent, by suit, judgment, and foreclosure in the same manner as the lien of any recorded mortgage or deed of trust of record (including nonjudicial foreclosure, to the extent permitted by Utah law). The Club Operator may bid for the Lot at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Lot. The Club Operator may sue for unpaid Membership Fees and other charges authorized hereunder without foreclosing or waiving the lien securing the same. The sale or transfer of any Lot shall not affect the above-described lien or relieve such Lot from the lien for any subsequent Membership Fees, except that the sale or transfer of any Lot pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any Membership Fees due prior to the foreclosure.

3.4 **Independent Covenant.** The obligation to pay the amounts provided for herein shall be mandatory and shall be a separate and independent covenant on the part of the each Owner. No Owner may exempt himself or herself from liability for Membership Fees by nonuse of Club's facilities, abandonment of a Lot, or any other means. No diminution or abatement of Membership Fees or set-off shall be claimed or allowed for any alleged failure of the Club Operator to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes or fails to take.

Article IV **General Provisions**

4.1 **Notice.** Any notice provided for in this Covenant shall be served personally or shall be mailed by registered or certified mail to the addresses specified below unless the Club Operator or Owner has specified, by written notice in accordance with this Section, a different address for delivery of notices, in which case the notice shall be addressed to such different address:

- (a) If to the Club: The Club at Wolf Creek Utah
 c/o Wolf Creek Properties, LC
 3923 North Wolf Creek Drive
 Eden, Utah 84310

Attention: President

(b) If to an Owner: The address of such Owner's Lot

All such notices shall, for all purposes, be deemed delivered and received (a) upon personal delivery to the addressee, or (b) on the third day after mailing when mailed by registered or certified mail, postage prepaid, and properly addressed.

4.2 Amendment. So long as Declarant owns any portion of the Club Property or the property subject to the Master Declaration, or has an option unilaterally to submit additional property to the Master Declaration in accordance with its terms, Declarant may unilaterally amend this Covenant to withdraw from its coverage property described on Exhibit A or Exhibit B, to substitute a different parcel or parcels of property for that previously described on Exhibit B, or to include additional property on Exhibit A or Exhibit B; provided, if Declarant is not the owner of the property withdrawn, substituted or added, the consent of the owner shall be required. Otherwise, this Covenant may be amended only by an instrument signed by the Club Operator and by owners of a majority of the Lots, and by Declarant, so long as Declarant has any rights under this Section, which amendment is recorded with the Weber County Recorder. Amendments to this Covenant shall become effective upon recordation unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted.

4.3 Duration; Termination. This Covenant may be terminated only by an instrument signed by the Club Operator and by owners of a majority of the Lots, and by Declarant so long as Declarant has any rights under this Section, which instrument is recorded in the office of the Weber County Recorder. Unless terminated as provided herein, this Covenant shall have perpetual duration. If Utah law limits the period during which covenants may run with the land, then to the extent consistent with such law, this Covenant shall run for a period of 20 years and shall automatically be extended at the expiration of such period for successive periods of 20 years each. If any provision of this Covenant is judicially determined to be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

4.4 Transfer of Club's Facilities. The transfer of any portion of the Club Property by Declarant shall not affect the continued validity or enforceability of this Covenant, unless amended by Declarant as provided in Section 4.2 or terminated in accordance with Section 4.3.

4.5 Construction; Severability. This Covenant shall be governed by and construed under Utah law. Invalidation of any provision of this Covenant, in whole or in part, by judgment or court order shall not affect other provisions.

4.6 Waiver. No failure of Declarant, the Club Operator, or any Owner to exercise any right or power under this Covenant or to insist upon strict compliance with this Covenant and no custom or practice at variance with the terms of this Covenant shall constitute a waiver of the right thereafter to demand exact compliance with the terms of this Covenant.

4.7 Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

[Signature page follows]

IN WITNESS WHEREOF, Declarant has executed this Covenant on the date first set forth above.

"Declarant":

WOLF CREEK PROPERTIES, LC,
a Utah limited liability company

By: 
Steven C. Roberts, Authorized Representative

STATE OF UTAH)
) ss:
COUNTY OF WEBER)

On this 10th day of January 2009 personally appeared before me **Steven C. Roberts**, who being duly sworn, did say that he is the Authorized Representative of Wolf Creek Properties, LC, a Utah limited liability company, the signer of the foregoing instrument, and the said Steven C. Roberts duly acknowledged to me that he executed the same on behalf of and with full authority of said limited liability company.

(Notary Seal)


Notary Public

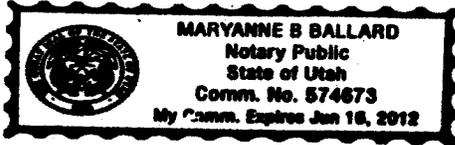


EXHIBIT A

To

DECLARATION OF COVENANT REGARDING MANDATORY CLUB MEMBERSHIP

Legal Description of Lots

The "Lots" referred to in the foregoing Covenant are located in Weber County, Utah and are more particularly described as follows:

EXHIBIT A

Description of Lots

Street Address	Legal Description
3984 Elk Ridge Trail	All of Lot 98, The Highlands at Wolf Creek Phase 7, Weber County, Utah
3992 Elk Ridge Trail	All of Lot 99, The Highlands at Wolf Creek Phase 7, Weber County, Utah
4004 Elk Ridge Trail	All of Lot 100, The Highlands at Wolf Creek Phase 7, Weber County, Utah
5789 Porcupine Ridge Rd	All of Lot 104, The Highlands at Wolf Creek Phase 7, Weber County, Utah
5852 Wildflower Ct	All of Lot 105, The Highlands at Wolf Creek Phase 7, Weber County, Utah
5851 Wildflower Ct	All of Lot 106, The Highlands at Wolf Creek Phase 7, Weber County, Utah
5857 Wildflower Ct	All of Lot 107, The Highlands at Wolf Creek Phase 7, Weber County, Utah
5869 Wildflower Ct	All of Lot 108, The Highlands at Wolf Creek Phase 7, Weber County, Utah
4015 Elk Ridge Trail	All of Lot 110, The Highlands at Wolf Creek Phase 7, Weber County, Utah
3665 Middlefork Rd	All of Lot 113, The Highlands at Wolf Creek Phase 7, Weber County, Utah
3651 Middlefork Rd	All of Lot 114, The Highlands at Wolf Creek Phase 7, Weber County, Utah
3630 Pineview Ct	All of Lot 116, The Highlands at Wolf Creek Phase 8, Weber County, Utah

22-247-0002 | 0003 | 0004 | 0008 | 0009 ✓
 22-248-0001 | 0002 | 0003 | 0004 | 0008 | 0009 ✓
 22-249-0002 ✓

EXHIBIT B

To

DECLARATION OF COVENANT REGARDING MANDATORY CLUB MEMBERSHIP

Legal Description of Club Property

The "Club Property" referred to in the foregoing Covenant is located in Weber County, Utah and is more particularly described as follows:

Prepared by: Gardner Engineering

04/16/2007

New Boundary Parcel Number ~~22-016-0001~~

Section 22:

A part of the Northwest quarter and East Half of Section 22, Township 7 North, Range 1 East, Salt Lake Base & Meridian beginning at a point North 00°30'27" East 70.83 feet along the section line and West 48.57 feet from the Center of said Section 22, T7N, R1E, SLB&M; thence the following courses:

N 38°48'58" E	183.29 feet; to a non-tangent curve on the south right of way line of SR 158; thence along said SR 158 the following four courses:
Southeasterly	53.00 feet; along said curve to the right to a tangent line (R=458.00' Delta=06°37'48" T=26.53' CH=52.97' CHB=S 48°21'33" E); thence
S 51°40'26" E Southeasterly	241.92 feet; to a tangent curve; thence 135.98 feet; along a curve to the right (R=141.58' Delta=55°01'39" T=73.75' CH=130.81' CHB=S 24°12'41" E) to a compound curve; thence
Southterly	54.24 feet; along said curve to the right (R=667.71' Delta=04°39'18" T=27.13' CH=54.22' CHB=S 05°34'04" W) to a non-tangent line; thence
N 84°05'40" W Westerly	52.99 feet; to a non-tangent curve; thence 71.08 feet; along said curve to the left (R=38.08' Delta=106°56'55" T=51.42' CH=61.20' CHB=N 84°05'40" W) to a non-tangent line; thence
N 84°05'40" W	138.51 feet; thence
N 10°48'19" W	82.39 feet; thence
N 49°09'51" W	166.32 feet; to the point of beginning.

Contains: 75,706 Sq. Ft. 1.74 Acres

22-016-0058 /

