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EH 2668594 PG 1 OF 37  
ERNEST D ROWLEY, WEBER COUNTY RECORDER  
17-DEC-13, 1031 AM FEE \$90.00 DEP TOT  
REC FDR: VIAL FOTHERINGHAM

WHEN RECORDED, RETURN TO:  
602 EAST 300 SOUTH  
SALT LAKE CITY, UTAH 84102

**SUPPLEMENT TO THE DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
AND RESERVATION OF EASEMENTS**

**FOR**

**THE SUMMIT AT SKI LAKE  
GATED COMMUNITY**

This Supplement to the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for The Summit at Ski Lake Gated Community is made by The Summit at Ski Lake Gated Community Association, Inc. a Utah nonprofit corporation (the "Association") and Deborah R. Nicoll, as the owner of Lot 40 of Phase 10 of The Summit at Ski Lake, (the "Owner"), pursuant to the following:

Recitals

- A. On April 14, 2000, Ski Lake Corporation (the "Declarant") caused to be recorded as Entry No. 700393, Book 2067, Page 1291, in the office of the Recorder of Weber County, Utah, that certain Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for The Summit at Ski Lake Gated Community, a Planned Unit Development, Weber County, Utah (the "Declaration").
- B. On March 1, 2006, a supplemental plat for Phase 10 of the development of The Summit at Ski Lake Gated Community was recorded as entry number 2163626. However, the Declarant mistakenly failed to record a supplemental declaration submitting Lot 40 in Phase 10 to the Declaration.
- C. The Owner is the owner of Lot 40 of Phase 10 at The Summit at Ski Lake Gated Community.
- D. This supplemental declaration is executed and recorded to memorialize the parties understanding and desire that the Owner, as the owner of Lot 40 of Phase 10, is a member of the Association and that Lot 40 is subject to each of the conditions, covenants, and restrictions contained in the Declaration.

PAGE 1 - SUPPLEMENT TO DECLARATION

- 20-068-0001-0004
- 20-071-0001-0002
- 20-070-0001-0010
- 20-072-0001-0007
- 20-084-0001-0002
- 20-085-0001-0002
- 20-087-0001-0005
- 20-092-0001-0006
- 20-117-0001
- 20-101-0001-0002
- 20-136-0001-0004

Supplement to Declaration

In consideration of the recitals above, the following is declared:

- 1. **Definitions.** All defined terms as used in this Supplement to Declaration have the same meaning as those set forth in the Declaration.
- 2. **Authorization.** The Owner hereby authorizes the Declaration and Bylaws to be recorded against Lot 40.
- 3. **Submission.** The Owner hereby submits to the covenants, conditions, easements, and restrictions of the Declaration, and the Bylaws adopted by the Association, that will be recorded against Lot 40, and intends that the provisions of the Declaration, and any future amendments thereto, constitute covenants that run with the land and will be binding on the Owner and all successors in title and interest as further described by the Declaration. The Owner also acknowledges membership in the Association as further described by the Declaration. The Owner owns Lot 40 within Phase 10, which is particularly described as follows:

**ALL OF LOT 40, SUMMIT AT SKI LAKE NO. 10 (THE), WEBER COUNTY, UTAH.**

Parcel Number: 20-101-0002 ✓ 188 /

- 4. **Effective Date.** This Supplement to the Declaration is effective upon recording at the Weber County Recorder's office.

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

**THE SUMMIT AT SKI LAKE GATED  
COMMUNITY ASSOCIATION, INC.**

By: *Marcus*

Its: *Secretary/Treasurer*

State of Utah )  
 ) :ss  
County of Weber )

On this 19 day of JUNE, 2012, personally appeared before me ROSE A FLORES, who being by me duly sworn, did say that he/she is the officer of The Summit at Ski Lake Gated Community Association, a Utah

Nonprofit Corporation; that said instrument was signed by him/her on behalf of said Association pursuant to proper authority; and that said Association executed the same.



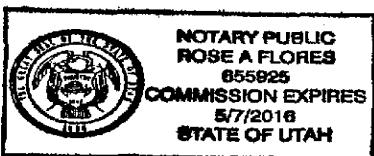
*Rose A Flores*  
\_\_\_\_\_  
NOTARY PUBLIC

THE SUMMIT AT SKI LAKE LOT 40  
OWNER

*Deborah R. Nicoll*  
\_\_\_\_\_  
Deborah R. Nicoll

State of Utah                    )  
  ):ss  
County of Weber                )

On this 19 day of JUNE, 2012, personally appeared before me Deborah R. Nicoll who being by me duly sworn, did say that she is the owner of Lot 40 at The Summit at Ski Lake and the information contained above is true and accurate to the best of her knowledge.



*Rose A Flores*  
\_\_\_\_\_  
NOTARY PUBLIC

**EXHIBIT A**

**The Summit at Ski Lake Gated Community Declaration**

2/11  
+ PRELIMS  
19/2015

*DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
AND RESERVATION OF EASEMENTS FOR  
THE SUMMIT AT SKI LAKE  
GATED COMMUNITY*

EH1700393 BK2067 P01291  
DUNG CROFTS, WEBER COUNTY RECORDER  
14-APR-00 4:06PM FEE \$ 82.00 DEP JPH.  
REC FOR: SKI LAKE CORP

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CONDITIONS AND RESTRICTIONS AND  
RESERVATION OF EASEMENTS FOR  
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**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
AND RESERVATION OF EASEMENTS FOR  
THE SUMMIT AT SKI LAKE  
GATED COMMUNITY**

\*\*\*\*\*

THIS DECLARATION, made this \_\_\_\_\_ day of \_\_\_\_\_, 2000, by SKI LAKE CORPORATION, a Utah corporation, Declarant:

20-070-0002 TO 0010 RECITALS:

A. Declarant is the owner of certain property in the County of Weber County, State of Utah, which is described as:

Lots 8, 9, 10, 11, 12, 13, 14, 15, and 16, The Summit at Ski Lake No. 3, together with the Common Areas, the plat of which is recorded in Book \_\_\_\_\_ at Page \_\_\_\_\_, in the Office of the Weber County Recorder, State of Utah

Subject to easements over, across, along and through the channels, gullies, ditches, and pipes on or in said Property for the drainage of storm and run-off water.

Together with the Common Areas consisting of private roads designated as Innsbruck Drive, Via Cortina and Cortina Point.

The Subdivision Plat is now recorded in Book \_\_\_\_\_ at Page \_\_\_\_\_ of the records in the Office of the Weber County Recorder, State of Utah,

"The Properties."

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B. Declarant has deemed it desirable, for the efficient preservation of the values and amenities in the real property described above ("Properties"), to create a non-profit corporation under the Utah Non-Profit Corporation and Cooperative Association Act to be known as THE SUMMIT AT SKI LAKE GATED COMMUNITY ASSOCIATION to which should be delegated and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created, which said corporation is sometimes hereafter referred to as the Association.

C. Declarant has caused such corporation to be created, the members of which shall be the respective Owners of Lots.

D. Declarant will develop and convey all of the Properties, as hereinafter defined, pursuant to a general plan for all of the Properties and subject to certain protective covenants, conditions, restrictions, reservations, easements, equitable servitudes, liens and charges, all running with the Properties as hereinafter set forth.

There are nine (9) subdivision lots pursuant to the provisions of the Subdivision Ordinance of Weber County, and the laws of the State of Utah.

Each Owner of the Lots shall be members of the Association.

E. Declarant hereby declares that all of the Properties shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, and improved, subject to the following easements, restrictions, covenants, conditions and equitable servitudes, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Properties, in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale of the Properties, or any portion thereof. The covenants, conditions, restrictions, reservations, easements and equitable servitudes set forth herein shall run with the Properties and shall be binding upon all persons having any right, title or interest in the Properties or any part thereof, their heirs, successors and assigns and shall inure to the benefit of every portion of the Properties and any interest therein; and shall inure to the benefit of and be binding upon Declarant, its successors in interest and each Owner and his respective successors in interest; and may be enforced by any Owner and his successors in interest and by the Association.

Notwithstanding the foregoing, no provision of this Declaration shall be construed as to prevent or limit Declarant's rights to complete development of the Properties and construction of improvements therein, nor Declarant's rights to maintain model homes, construction, sales or leasing offices or similar facilities on any property in the Properties owned by Declarant or the Association, nor Declarant's right to post signs incidental to construction, sales or leasing, nor Declarant's right to annex additional contiguous territory to the provisions of this Declaration.

*ARTICLE I*

*Name*

The Properties may be referred to as The Summit at Ski Lake Gated Community.

*ARTICLE II*

*Common Areas*

The Common Areas shall be and are conveyed to The Summit at Ski Lake Gated Community Association, a Utah non-profit corporation, subject to the Declaration and subject to appropriate access by governmental, including all law enforcement and fire protection authorities. The gate(s) on the private road(s) shall be accessible by a knock box system as authorized by the Weber Fire District.

The Common Areas consist of roads named Innsbruck Drive, Via Cortina and Cortina Point as designated on the subdivision plat, together with landscaping within the road areas.

Provided, however, the following described part of Innsbruck Drive:

A part of the Northwest Quarter of Section 24, Township 6 North, Range 1 East, Salt Lake Base and Meridian, U.S. Survey: Beginning at the Southwest corner of Lot 3, The Summit at Ski Lake No. 1, a subdivision in Huntsville District, Weber County, Utah; which is 1679.24 feet South 89°36'57" East along the Section line and 1419.87 feet South from the Northwest corner of said Section 24; and running thence South 0°21'57" West 5.19 feet to a point of curvature; thence Southwesterly along the arc of a 220.00 foot radius curve to the right a distance of 136.44 feet (Central Angle equals 35°31'57" and Long Chord bears South 18°07'56" West 134.26 feet) to a point of tangency; thence South 35°53'54" West 100.45 feet to a non-tangent curve; thence Southerly, Southwesterly, Westerly, Northwesterly, Northerly and Northeasterly along the arc of a 65.00 foot radius curve to the right a distance of 346.04 feet (Central Angle equals 305°01'38" and Long Chord bears North 54°06'06" West 65.00 feet) to a non-tangent point on the Easterly boundary line of The Summit at Ski Lake No. 2, a subdivision in Huntsville District, Weber County, Utah; thence three (3) courses along said Easterly line as follows: North 35°53'54" East 100.45 feet to a point of curvature; Northeasterly along the arc of a 160.00 foot radius curve to the left a distance of

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99.23 feet (Central Angle equals 35°31'57" and Long Chord bears North 18°07'56" East 97.64 feet) to a point of tangency and North 0°21'57" East 5.19 feet to the South line of said The Summit at Ski Lake No. 1; thence South 89°38'03" East 60.00 feet along said South line to the point of beginning

is subject, to a non-exclusive easement for ingress and egress road and utility purposes in favor of the Owners of Lots 5 and 6, The Summit at Ski Lake No. 2 and Lot 7, The Summit at Ski Lake No. 3, and for the benefit of said Lots, subject to the payment of a prorata share of the costs of maintenance thereof.

Provided, further, however, at the time Innsbruck Drive as part of the subdivision phase of the Summit at Ski Lake abutting said property is recorded, Declarant agrees to provide access to Innsbruck Drive in favor of the adjacent property to the South. The details of access and costs will be determined at that time by Declarant and Weber County.

**ARTICLE III**

*Owner*

Owner shall mean and refer to one (1) or more Persons who holds the record title to any Lot which is part of the Properties, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Lot is sold under a recorded contract of sale, and the contract specifically so provides, then the purchaser (rather than the fee owner) will be considered the owner. If a Lot is subject to a written lease with a term in excess of one (1) year and the lease specifically so provides, then upon filing a copy of the lease with the Board of Trustees, the lessee (rather than the fee owner) will be considered the Owner.

**ARTICLE IV**

*Membership*

Every Owner shall be deemed to have a membership in the Association.

No Owner, whether one (1) or more Persons, shall have more than one (1) membership per Lot owned. In the event the Owner of a Lot is more than one (1) Person, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership may be exercised by a Member or the Member's spouse, subject to the provisions of this Article and the Bylaws. The membership rights of a Lot owned by a corporation, partnership, or other legal entity

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shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary, subject to the provisions of this Article and the Bylaws.

**ARTICLE V**

*Voting*

The Association shall have two (2) classes of membership, Class "A" and Class "B", as follows:

(a) Class "A". Class "A" Members shall be all Owners with the exception of Class "B" Members, if any.

Class "A" Members shall be entitled to one (1) equal vote for each Lot in which they hold the interest required for membership. There shall be only one (1) vote per Lot.

In any situation where a Member is entitled personally to exercise the vote for his Lot and more than one (1) Person holds the interest in such Lot required for membership, the vote for such Lot shall be exercised as those Persons determine among themselves and advise the Secretary of the Association, in writing, prior to any meeting. In the absence of such advice, the Lot's vote shall be suspended if more than one (1) Person seeks to exercise it.

(b) Class "B". The Class "B" Member shall be Declarant. The Class "B" Member shall have two (2) votes for each Class A member vote and shall be entitled to appoint a majority of the members of the Board of Trustees during the Class "B" Control Period.

**ARTICLE VI**

*Control Period*

The Class "B" Member Control Period is until the first to occur of the following:

- (a) When fifty percent (50%) of the Lots permitted by the Preliminary Plan for the property described at paragraph A of the Recitals and at Article XXI, Expansion, have certificates of occupancy issued thereon and have been conveyed to Persons other than Declarant or builders holding title solely for purposes of development and sale;
- (b) March 1, 2007; or

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(c) When, at its discretion, the Class "B" Member so determines.

#### ARTICLE VII

##### *Association's Responsibility for Maintenance*

The Association shall maintain and keep in good repair the Common Areas; the Common Expenses and maintenance to be funded as hereinafter provided. This maintenance shall include, but need not be limited to, maintenance, repair, and replacement, subject to any insurance then in effect, of the roads, gates, all landscaping, and other flora, structures, and improvements situated upon the Common Areas, including but not limited to water drainage, specialty lights and open spaces.

All costs associated with maintenance, repair and replacement of the Common Areas shall be a Common Expense to be allocated among all Lots as part of the Base Assessment.

#### ARTICLE VIII

##### *Insurance*

The Association's Board of Trustees, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk casualty insurance, if reasonably available, for all insurable improvements on the Common Areas. If blanket all-risk coverage is not available, then at a minimum an insurance policy providing fire and extended coverage shall be obtained. This insurance shall be in an amount sufficient to cover one hundred (100%) percent of the replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

The Board shall also obtain a public liability policy covering the Common Areas, the Association, and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The public liability policy shall have at least a \$500,000.00 single person limit as respecting bodily injury and property damage, a \$1,000,000.00 limit per occurrence, if reasonably available, and a \$250,000.00 minimum property damage limit.

Premiums for all insurance on the Common Areas shall be Common Expenses of the Association and shall be included in the Base Assessment.

All insurance coverage obtained by the Board of Trustees shall be written in the name of

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the Association as trustee for the respective benefitted parties, as further identified in (b) below. Such insurance shall be governed by the provisions hereinafter set forth:

- (d) All policies shall be written with a company licensed to do business in Utah which holds a Best's rating of A or better and is assigned a financing size category of XI or larger as established by A.M. Best Company, Inc., if reasonably available, or if not available, the most nearly equivalent rating.
- (b) All policies on the Common Areas shall be for the benefit of the Association, its Members, and Mortgagees providing construction financing on the Common Areas.
- (c) Exclusive authority to adjust losses under policies obtained by the Association on the Properties shall be vested in the Association's Board of Trustees; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- (d) In no event shall the insurance coverage obtained and maintained by the Association's Board of Trustees hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees.
- (e) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Weber County, State of Utah area.
- (f) The Association's Board of Trustees shall be required to make every reasonable effort to secure insurance policies that will provide for the following:
  - (i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Trustees, its manager, the Owners, and their respective tenants, servants, agents, and guests;
  - (ii) a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;
  - (iii) a statement that no policy may be canceled, invalidated, suspended, or subject to non-renewal on account of any one or more individual Owners;
  - (iv) a statement that no policy may be canceled, ~~invalidated, suspended, or~~ ~~subject to non-renewal on account of any one or more individual Owners.~~

subject to non-renewal on account of the conduct of any Trustee, officer, or employee of the Association or its duly authorized manager without prior demand, in writing, delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner, or any Mortgagee;

- (v) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and
- (vi) that the Association will be given at least thirty (30) days' prior written notice of any cancellation, substantial modification, or non-renewal.

In addition to the other insurance required by this section, the Board shall obtain, as a Common Expense, worker's compensation insurance, if and to the extent required by law; Trustees' and officers' liability coverage, if reasonably available, a fidelity bond or bonds on Trustees, officers, employees, and other Persons handling or responsible for the Association's funds, if reasonably available, and flood insurance, if required. The amount of fidelity coverage shall be determined in the Trustees' best business judgment but, if reasonably available may not be less than three (3) months' assessments on all Lots, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal.

## ARTICLE IX

### *Damage and Destruction*

(a) Immediately after damage or destruction by fire or other casualty to all or any part of the Common Areas covered by insurance written in the name of the Association, the Board of Trustees or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Common Areas. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Common Areas to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

(b) Any damage or destruction to the Common Areas shall be repaired or reconstructed unless the Members representing at least seventy-five (75%) percent of the total vote of the Association, shall decide within sixty (60) days after the casualty not to repair or reconstruct. If



for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the costs of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Areas shall be repaired or reconstructed; provided, however, this provision shall not apply to construction Mortgagees providing construction financing for such damaged property.

(c) In the event that it should be determined in the manner described above that the damage or destruction to the Common Areas shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Common Areas shall be restored to their natural state and maintained by the Association, in a neat and attractive condition.

#### ARTICLE X

##### *Disbursement of Proceeds*

If the damage or destruction for which the proceeds of insurance policies are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction to the Common Areas shall be retained by and for the benefit of the Association and placed in a capital improvements account. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner or Owners and the Mortgagee(s) as their interest may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any Mortgagee of a Lot and may be enforced by such Mortgagee.

#### ARTICLE XI

##### *Repair and Reconstruction*

If the damage or destruction to the Common Areas for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Trustees shall, without the necessity of a vote of the Members, levy a Special Assessment against all Owners on the same basis as provided for Base Assessments. Additional assessments may be made in like manner at any time during or following the completion of any

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repair or reconstruction.

#### ARTICLE XII

##### *Condemnation*

Whenever all or any part of the Common Areas shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Members representing at least two-thirds (2/3rds) of the total Association vote by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows: if the taking involves a portion of the Common Areas on which improvements have been constructed, then, unless within sixty (60) days after such taking Declarant and Members representing at least seventy-five (75%) percent of the total vote of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Areas to the extent lands are available therefor, in accordance with plans approved by the Board of Trustees of the Association. If such improvements are to be repaired or restored, the above provisions in Section 10 hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Areas, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Trustees of the Association shall determine.

#### ARTICLE XIII

##### *Assessments*

There are hereby created assessments for Association expenses as may from time to time specifically be authorized by the Board of Trustees to be commenced at the time and in the manner set forth in Section 18. There shall be two (2) types of assessments: (a) Base Assessments to fund Common Expenses for the benefit of all Members of the Association; and (b) Special Assessments as described in Article XV.

Base Assessments shall be levied equally on all Lots. Special Assessments shall be levied as provided in Article XIV. Each Owner, by acceptance of a deed or recorded contract of sale to any portion of the Properties, is deemed to covenant and agree to pay these assessments.

All assessments, together with interest at a rate not to exceed the highest rate allowed by Utah law as computed from the date of delinquency first occurs, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Owner of such Lot at the time the assessment arose, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance, except no first Mortgagee, nominee of the Mortgagee, or third party purchaser who obtains title to a Lot pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

The Association shall, upon demand at any time, furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer or management agent of the Association setting forth whether such assessment has been paid as to any particular Lot. Such certificate shall be conclusive evidence of payment to the Association of such assessment therein stated to have been paid. The Association may require the advance payment of a processing fee not to exceed \$100.00 for the issuance of such certificate.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Trustees which may include, without limitation, acceleration of the annual Base Assessment for delinquents. Unless the Board otherwise provides, the Base Assessment shall be paid in quarterly installments.

No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including by way of illustration and not limitation, by non use of Common Areas or abandonment of the Lot. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Article or by the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services or materials or a combination of services and materials with Declarant or other entities for the payment of some portion of the Common Expenses. K2167 PG1305

*ARTICLE XIV**Computation of Base Assessment*

It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year, to prepare a budget covering the estimated Common Expenses of the Association during the coming year. The budget shall include a capital contribution establishing a reserve fund in accordance with a capital budget separately prepared.

The Base Assessment to be levied for the coming year against each Lot shall be computed by dividing the budgeted Common Expenses by the total number of Lots of the Properties. The Board shall cause a copy of the Common Expense budget and notice of the amount of Base Assessment to be levied against each Lot for the following year to be delivered to each Owner at least thirty (30) days prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved at a meeting of the Members by the vote of Members or their alternates representing at least a majority of the total Class "A" vote in the Association, and by the Class "B" Member, if such membership exists. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Members as provided for in the Bylaws.

Notwithstanding the foregoing, however, in the event the proposed budget is disapproved or the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

*ARTICLE XV**Special Assessments*

In addition to the Base Assessment, the Association may levy a Special Assessment or Special Assessments from time to time; provided, such assessment shall have the affirmative vote or written consent of Members representing at least fifty-one (51%) percent of the Class "A" vote in the Association and the affirmative vote or written consent of the Class "B" Member, if such exists. The obligation to pay Special Assessments shall be computed on the same basis as for Base Assessments. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.

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**ARTICLE XVI***Lien for Assessments*

Upon recording of a notice of lien on any Lot, there shall exist a perfected lien for unpaid assessments prior to all other liens, except: (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto; and (2) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value.

Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure.

The Association, acting on behalf of the Owners, shall have the power to bid for the Lot at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be charged or levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its equal pro rate share of the assessment that would have been charged such Lot had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid Common Expenses and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.

**ARTICLE XVII***Capital Budget and Contribution*

The Board of Trustees shall annually prepare a capital budget to take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing by annual assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within and distributed with the budget and assessment.

**ARTICLE XVIII***Date of Commencement of Assessments*

The assessments provided for herein shall commence as to each Lot on the first day of the first month following: (i) the date of conveyance of the Lot by Declarant; or (ii) the effective date

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of the first budget, whichever is later. Assessments shall be due and payable in a manner and on a schedule as the Board of Trustees may provide. The first annual assessment shall be adjusted according to the number of days remaining in the fiscal year at the time assessments commence on the Lot.

**ARTICLE XVIX**

*Subordination of the Lien to Institutional First Mortgages*

The lien of assessments, including interest, late charges (subject to the limitations of Utah law), and costs (including attorney's fees) provided for herein, shall be subordinate to the lien of any institutional first Mortgage upon any Lot. The sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of an institutional first Mortgage, or transfer to an institutional first Mortgagee or third party pursuant to a deed in lieu of foreclosure, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from lien rights for any assessments thereafter becoming due. Where the Mortgagee holding an institutional first Mortgage of record or other purchaser of a Lot obtains title pursuant to remedies under the Mortgage, its successors and assigns shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Lot which became due prior to the acquisition of title to such Lot by such acquirer. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Lots, including such acquirer, its successors and assigns.

**ARTICLE XX**

*Capitalization of Association*

Upon acquisition of record title to a Lot by the first purchaser thereof other than Declarant or an Owner who purchases solely for the purpose of constructing a dwelling thereon for resale, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to 50% of the amount of the annual Base Assessment per Lot for that year as determined by the Board. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association for use in covering operating expenses and other expenses incurred by the Association pursuant to the terms of this Article and the Bylaws.

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## ARTICLE XXI

*Expansion*

Section 1. Additional Property. Declarant anticipates that the project may be expanded to include certain real property situate in Weber County, State of Utah, adjacent or nearby the Summit at Ski Lake development in the sole discretion of Declarant and is described as follows:

A part of the North half of Section 24, Township 6 North, Range 1 East, Salt Lake Base and Meridian, U.S. Survey: Beginning at a point on the Southwesterly boundary line of Ski Lake Estates No. 3, a subdivision in Huntsville District, Weber County, Utah; which is 2476.73 feet South 89°36'57" East along the Section line and 1605.47 feet South from the Northwest corner of said Section 24; and running thence three (3) courses along the Southwesterly and Southerly boundary line of said Ski Lake Estates No. 3 and the Southerly boundary of Valley-Lake Estates No. 3, a subdivision in Huntsville District, Weber County, Utah, as follows: South 58°20'00" East 123.39 feet; South 85°04'57" East 428.33 feet and South 78°48'06" East 193.16 feet; thence South 4°55'03" West 214.87 feet; thence South 85°04'57" East 441.52 feet to a point of curvature; thence Northeasterly along the arc of a 84.52 foot radius curve to the left a distance of 99.97 feet (Central Angle equals 67°46'09" and Long Chord bears North 61°01'59" East 94.24 feet); thence South 51°53'52" East 352.75 feet; thence South 0°23'03" West 481.69 feet; thence North 87°30'53" West 1419.85 feet; thence North 1°36'17" West 100.00 feet; thence South 88°23'43" West 100.00 feet; thence South 1°36'17" East 100.00 feet; thence South 88°23'33" West 1723.98 feet; thence North 0°38'57" West 215.92 feet; thence North 4°01'33" West 212.08 feet; thence North 52°35'58" East 274.13 feet; thence North 34°03'54" East 103.85 feet; thence North 20°37'40" East 135.30 feet; thence North 17°04'39" East 273.57 feet; thence North 40°40'58" East 113.36 feet to the Southwest corner of Lot 6, the Summit at Ski Lake No. 2, a subdivision in Huntsville District, Weber County, Utah; thence South 54°06'06" East 324.73 feet along the Southwesterly line of said Lot 6 to a point on the Westerly right-of-way line of Innsbruck Drive; thence four (4) courses along said Westerly right-of-way line as follows: Southeasterly along the arc of a 65.00 foot radius curve to the left a distance of 11.99 feet (Central Angle equals 10°34'08" and Long Chord bears South 21°34'36" East 11.97 feet); Southwesterly and Southerly along the arc of a 220.00 foot radius curve to the left a distance of 214.76 feet (Central Angle equals 55°55'52" and Long Chord bears South 5°12'48" West 206.33 feet) to a point of tangency; South 22°45'08" East 255.49 feet to a point of curvature and Southeasterly along the arc of a 370.00 foot radius curve to the right a distance of 105.04 feet (Central Angle

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equals 16°15'59" and Long Chord bears South 14°37'08" East 104.69 feet) to a point of tangency; thence South 6°29'09" East 88.58 feet; thence North 83°30'51" East 60.00 feet; thence North 6°29'09" West 55.55 feet to a point of curvature; thence Northeasterly along the arc of a 15.00 foot radius curve to the right a distance of 21.55 feet (Central Angle equals 82°19'54" and Long Chord bears North 34°40'48" East 19.75 feet) to a point of reverse curvature; thence Northeasterly along the arc of a 130.00 foot radius curve to the left a distance of 45.73 feet (Central Angle equals 20°09'13" and Long Chord bears North 65°46'09" East 45.49 feet) to a point of tangency; thence North 55°41'32" East 322.78 feet; thence South 34°18'28" East 282.69 feet; thence North 64°40'26" East 301.81 feet; thence North 2°07'54" East 220.21 feet; thence North 26°08'37" East 61.99 feet; thence North 12°22'21" East 268.22 feet to the point of beginning.

ALSO INCLUDING A part of the Northwest Quarter of Section 24, Township 6 North, Range 1 East, Salt Lake Base and Meridian, U.S. Survey: Beginning at a point which is 1801.20 feet South 89°36'57" East and 1868.65 feet South from the Northwest corner of said Section 24; and running thence South 41°17'57" East 170.29 feet; thence South 55°41'32" West 317.70 feet to a point of curvature; thence Southwesterly along the arc of a 70.00 foot radius curve to the right a distance of 13.91 feet (Central Angle equals 11°23'06" and Long Chord bears South 61°23'05" West 13.89 feet) to a point of compound curvature; thence Northwesterly along the arc of a 15.00 foot radius curve to the right a distance of 25.91 feet (Central Angle equals 98°57'30" and Long Chord bears North 63°26'37" West 22.81 feet) to a point of reverse curvature; thence Northwesterly along the arc of a 430.00 foot radius curve to the left a distance of 65.95 feet (Central Angle equals 8°47'15" and Long Chord bears North 18°21'30" West 65.89 feet) to a point of tangency; thence North 22°45'08" West 143.52 feet; thence North 67°14'52" East 280.73 feet to the point of beginning.

Section 2. Reservation of Right to Expand. Declarant hereby reserves the right to expand the project, without the consent of the Lot owners and without the consent of the Association, to include additional Common Areas and structures and Lots which shall be compatible with the structures and Lots of this present project in terms of quality of construction, the principal materials to be used and architectural style, to be constructed on the real property described above, or any portion thereto.

Section 3. Supplemental Declarations and Subdivision Plat. Such expansion may be accomplished by the filing for record by Declarant in the office of the County Recorder of Weber County, Utah, no later than March 1, 2007, a supplement or supplements to this Declaration containing a legal description of the site or sites for additional Common Areas and Lots, together

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with supplemental Subdivision Plat containing the same information with respect to the new Lots as was required on the original Subdivision Plat with respect to the initial Lots. The expansion may be accomplished in phases by successive supplements or in one supplemental expansion.

Section 4. Expansion of Provisions. In the event of such expansion, the provisions used in this Declaration automatically shall be expanded to encompass and refer to the project as so expanded and reference to this Declaration shall mean this Declaration as so supplemented. All conveyances of Lots after such expansion shall be effective to transfer rights in the project, as expanded, by use of the forms of descriptions set forth herein, with additional references to the supplemental Declarations and the supplemental Subdivision Plats.

Section 5. Declaration Operative on the Additional Property. The additional property shall be subject to all the terms and conditions of this Declaration and of a supplemental Declaration, and the existing property therein shall be subject to supplemental Declaration or Declarations with all the incidents pertaining thereto as specified therein.

Section 6. Liens. Liens arising in connection with the Declarant's ownership of and construction of improvements upon the property to be added must not adversely affect the rights of existing Lot owners or the priority of first mortgages on Lots. All taxes and other assessments relating to such property covering any period prior to the addition of the property must be paid or otherwise satisfactorily provided for by the Declarant.

Section 7. Restrictions and/or Limitations. There shall be no restrictions or limitations as to what portion or portions additional land may be added to the project. Portions of additional land may be added without regard to time except as provided at Section 3 (above) or boundaries.

No representations are made with regard to the locations of any improvements that may be made on any portions of the additional land or other improvements that will or will not be made on any portion of the additional land. However, the structures will be substantially identical to the structures on the land originally within the project.

## ARTICLE XXII

### Architectural Control Committee

There shall be an Architectural Control Committee composed of at least three (3) Members. Declarant shall have the sole right and absolute discretion to appoint the Members of the Architectural Control Committee during the Class "B" Control Period. Thereafter, committee members shall be appointed by the Board of Trustees of the Association. Committee members shall serve until the appointment of their successor and may be removed without cause at any time.

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by the person or persons entitled to appoint their successor in accordance with this paragraph.

### ARTICLE XXIII

#### *Approval by Architectural Control Committee*

Guidelines of the Architectural Control Committee shall be furnished to each buyer and must be used as the basis of developing their Lot. Upon purchase of a Lot, the buyer must sign a copy of the Architectural Control Guidelines indicating their agreement to follow said guidelines. The buyer of each Lot is bound by the Architectural Control Committee Guidelines, directions and decisions.

The following is a summary of significant parts of the architectural guidelines. However, the developer of each Lot hereby agrees that they will follow all the guidelines in the complete Architectural Control Guidelines packet. The steps for submitting plans as described in the Architectural Control Guidelines must be followed. The salient points are as follows:

- (1) An overall view of the proposed improvement or improvements must be discussed with the Architectural Control Committee before submitting any preliminary plans. A fee as provided in the Architectural Control Guidelines will be payable to the Architectural Control Committee with the submission of the preliminary plans to help defray costs incurred by the Committee for its work in the approval process.
- (2) The preliminary plans must include the following:
  - (a) a site plan with the location of said improvement or improvements on the Lot upon which it or they will be placed or constructed and the location of the proposed improvement or improvements relative to the other improvements on said Lot.
  - (b) Floor plans of each floor level.
  - (c) The basic structural system of the improvement or improvements and the materials to be used in the construction thereof.
  - (d) All building elevations.
  - (e) A grading plan for all improvements.

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- (f) Site Plan.
- (g) Preliminary landscaping design.
- (h) Proposed time schedule for construction and completion.
- (i) A survey acceptable to the Architectural Control Committee indicating the location of Lot corners and the proposed building position on the Lot.

The final approvals will be given as described in the process detailed in the Architectural Guidelines.

The Architectural Control Committee will not give its consent to the proposed improvement unless, in the opinion of the Architectural Control Committee, the improvement is properly designed and the design, contour, materials, shapes, colors and general character of the improvement is in harmony with existing structures on the Lot and on neighboring Lots, and in harmony with the surrounding landscape. The improvements shall be designed and located upon the Lot so as to minimize the disruption to the natural land forms and vegetation cover and view corridors of other Owners.

The Architectural Control Committee shall have the right to disapprove any application in the event said application and the plans submitted therewith are not of sufficient detail, or are not in accordance with the provisions herein set forth, or if the design or construction of the proposed improvement is not in harmony with neighboring improvements and the general surroundings, or in the judgment of the Architectural Control Committee, would decrease the real estate value of the community, or if the design and the plans for construction do not include sufficient safeguards for preservation of the environment or for any other reason the Architectural Control Committee may deem in the best interests of the subdivision. The decision of the Architectural Control Committee shall be final, binding and conclusive on all parties affected.

**ARTICLE XXIV**

*Bounds*

During the Class "B" Control Period, Declarant reserves the right to change at any time the bounds and the area of any Lot owned by Declarant, provided such change does not adversely affect the access to any Lot sold to a third party, and that such change has been approved and is in accordance with the various county, state and/or federal regulations controlling this subdivision.

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*ARTICLE XXV*

*Non-Waiver*

The approval of the Architectural Control Committee of any plans, drawings or specifications for any work done or proposed or in connection with any other matter, requiring the approval of the Architectural Control Committee under these restrictions, shall not be deemed to constitute a waiver of any right to withhold approval as to any similar plan, drawing, specification or matter whenever subsequently or additionally submitted for approval. Upon approval or disapproval of the plans by the Architectural Control Committee, one set of plans shall be returned to the Lot Owner and signed "approved" or "disapproved" by the Architectural Control Committee and one set shall be retained by the Committee. If the Architectural Control Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this article will be deemed to have been fully complied with. In order to obtain such approval, the Owner must submit for consideration of the Architectural Control Committee such details and information with relation to the contemplated action as the Architectural Control Committee shall request.

*ARTICLE XXVI*

*Professional Assistance*

If at any time the Architectural Control Committee shall determine that it would be in the best interest of The Summit at Ski Lake subdivision for the Architectural Control Committee and/or the Lot Owner to employ professional assistance to design any improvement involved in the proposed work the Architectural Control Committee shall inform such Owner of its determination, whereupon all plans and specifications shall be prepared by such qualified professionals as the Architectural Control Committee shall determine.

*ARTICLE XXVII*

*Immunity of Architectural Control Committee*

Notwithstanding the foregoing provisions, the Architectural Control Committee shall have no affirmative obligation to be certain that all elements of the design comply with restrictions contained in this Declaration, and no member of the Architectural Control Committee shall have any liability, responsibility or obligation whatsoever for any decision or lack thereof, in the carrying out of the duties as member of such Committee. Such Committee and its members shall

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have only an advisory function and the sole responsibility for compliance with all of the terms of this Declaration shall rest with the Owner. Each Owner agrees to save, defend and hold harmless the Architectural Control Committee and each of its members on account of any activities of the Architectural Control Committee relating to such Owner's property or buildings to be constructed on his or her property.

**ARTICLE XXVIII**

*Residential Homesites*

All Lots in the subdivision shall be known and described as residential homesites. No structure shall be erected, altered, placed or permitted to remain upon any homesite other than a one-family dwelling, such dwelling not to exceed two (2) stories above grade with a private attached garage for not more than four (4) cars and not less than two (2) cars; and other outbuildings as shall be approved in advance in writing by the Architectural Control Committee, subject to the rules and regulations of Weber County.

**ARTICLE XXIX**

*Minimum Finished Area*

No residential structure shall be erected or placed on any building Lot in said subdivision unless one of the following minimums are met:

- (1) If the residence is a single level or a rambler style with a walk-out basement, the main floor living areas, exclusive of porches, garage areas or basements, shall be no less than 2,000 square feet or a maximum of 3,000 square feet with a lower level walk-out. There will be a minimum of 2,800 square feet of finished living area in the home excluding porches, decks and garage areas.
- (2) If the residence is a multi-level, there shall be at least 2,800 square feet of finished living area of which a minimum of 1,800 square feet shall be on the main level, exclusive of porches, decks, garage areas or basements. A minimum of 800 square feet will be on the upper level.
- (3) Basement defined as: more than 50% of the total perimeter shall be more than four (4) feet below grade.
- (4) Lower level walk-out defined as: less than 50% of the total perimeter shall be four

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(4) feet or more below grade.

### ARTICLE XXX

#### *Dwelling Construction and Fence Restrictions*

In order to promote a harmonious community development and protect the character of the neighborhood, the following guidelines are set out and described in more detail in the Architectural Control Guidelines:

- (1) Dwelling style, design, alterations or additions shall conform to standards determined by the Architectural Control Committee.
- (2) Placement of a home on a Lot shall generally conform to the location of homes on nearby Lots with regard to the boundary lines of the Lots. However, the placement of a home on a Lot shall be such as to minimize the blocking of view corridors of neighboring homes and shall take into account the special features of the Lot regarding desirability for construction purposes.
- (3) Exterior construction materials shall be limited to stone, stone veneer, brick or brick veneer, wood siding, treated logs, synthetic stucco and shall be in natural tones indigenous to the area.
- (4) Roof design shall be limited to a minimum of 4/12 pitch.
- (5) Location of all storage or utility buildings, garbage and refuse containers, air conditioning equipment, clothes drying lines and utility pipes, etc., must be placed in a manner not obvious from the adjacent street and preferably in the rear of the dwelling.
- (6) Any light used to illuminate garages, patios, parking areas or for any other purpose shall be so arranged to reflect light away from adjacent residences and away from the vision of passing motorists. All exterior lighting must have a minimum effect on the natural dark sky atmosphere of the development.
- (7) Fences are limited to private areas near the home and are not permitted between the Lots.
- (8) A maximum of four (4) feet of concrete foundation may be exposed above ground. This must be covered with rock or other material approved by the

Architectural Control Committee to give it a more natural appearance.

**ARTICLE XXXI**

*Building and Landscaping Time Restrictions*

The exterior construction of all structures shall be completed within a period of one (1) year following commencement of construction. The front yard of each Lot shall be landscaped within a period of six (6) months following completion of each dwelling. Side and rear yards shall be landscaped within a period of one (1) year following completion of each dwelling including a minimum of fifteen (15) trees with a maximum expected height of tree at maturity of twenty-one (21) feet unless specifically approved by the Architectural Control Committee. Trees shall be placed in a location that minimizes blockage of view corridors from neighboring homes. Areas covered with natural foliage (e.g. scrub oak, aspen, sage brush, etc) will be considered landscaped and must not be disturbed in the building process except by approval of the Architectural Control Committee. Builder shall install native seed mix and/or sod together with landscaping plants and trees in all areas of unimproved land that have been disturbed in the building process.

**ARTICLE XXXII**

*Nuisances*

No noxious or offensive trade or activity or no nuisance shall be permitted on any Lot nor shall anything be done which may be or become an annoyance to the neighborhood.

**ARTICLE XXXIII**

*Animals*

No animals, livestock or poultry of any kind shall be raised, bred or kept on the above described property or any portion of such property, except dogs, cats or other household pets which may be kept provided they are not kept, bred or maintained for any commercial purpose and that they do not constitute a menace or a nuisance to the community.

**ARTICLE XXXIV**

*Temporary Structures*

No basement, tent, house trailer, shack, garage, barn or other out building erected in the

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subdivision shall at any time be used as a residence. No house, travel, camping, horse or similar trailers, boats, snowmobiles, trail bikes, motorcycles, work trucks or machinery of any kind may be parked for more than 72 hours on the Lot premises without special permission from the Architectural Control Committee.

#### *ARTICLE XXXV*

##### *Trash*

No trash, garbage or other waste shall be kept or permitted to remain on any Lot except in sanitary containers such as those provided by "Waste Management Company" or a similar commercial company. No materials shall be kept or stored on any Lot or any street in front of any Lot that will be unsightly or that will be a fire hazard.

#### *ARTICLE XXXVI*

##### *Temporary Signs*

One sign containing the Lot number of a newly offered homesite by the developer and other signs identifying the developer, model homes for sale and other information may be displayed by the developer.

For a homesite owned by a party other than the developer, no more than one (1) temporary sign per homesite is allowed if it is a new home under construction. This sign must conform with the Weber County Sign Ordinance. After the original sale of a home or Lot by the developer, no temporary sign of any kind may be erected other than the sign described above, except as specifically approved by the Architectural Control Committee.

#### *ARTICLE XXXVII*

##### *Landscaping Control*

Each Owner shall maintain his or her Lot in an attractive and safe manner so as not to detract from the community. Weeds that are harmful to native plants or improved garden areas must be kept to a minimum by the Lot Owner.



**ARTICLE XXXVIII**

*Outside Watering*

No more than seven thousand five hundred (7,500) square feet of landscaped area of any Lot in the subdivision shall be irrigated or watered. If a secondary water system is provided by the developer, the Owner is required to use it exclusively for all outside watering needs and not use any culinary water for outside watering. A hookup fee of NINE HUNDRED (\$900.00) DOLLARS will be due from each Owner for the connection to the secondary water system if it is established by the developer.

**ARTICLE XXXIX**

*Culinary Water*

All plumbing fixtures will be a low flow, low water usage type to conserve culinary water. A swimming pool would only be allowed with special written conditions by the Architectural Control Committee due to the high potential use of culinary water. If excessive culinary water is being used over a several month period, the developer reserves the right to investigate the cause and require corrective procedures, including fines for non-compliance.

**ARTICLE XXXX**

*Certain Exceptions for Declarant Activities*

Nothing in this Declaration shall be understood or construed to prevent Declarant, Declarant's developer transferee, or the employees, contractors, or subcontractors of Declarant or Declarant's developer transferee, from doing on any part or parts of the subdivision whatever they determine may be reasonably necessary or advisable in connection with the development of the subdivision including, but not limited to, constructing and maintaining such structures, including construction trailer and/or construction compound, model homes, which may or may not be occupied as residences, as may be reasonably necessary for the completion of the development of the subdivision conducting the business of establishing the subdivision as a residential community in the disposing of homesites by sale, lease or otherwise; and the maintaining of such sign or signs on any of the homesites owned or controlled by Declarant or Declarant's developer transferee, as may be reasonably necessary or advisable in connection with providing information to potential buyers, sale, lease, or otherwise of subdivision homesites. As used in this section, the words "Declarant's developer transferee" specifically exclude individual purchasers of improved Lots.

*ARTICLE XXXXI**Modification of Covenants*

Subject to prior notification to the Lot Owners, the covenants herein contained can be modified by the developer during the Class B Control Period at the sole discretion of the developer. Thereafter, these covenants can be modified by the affirmative vote of the Members representing seventy-five (75%) percent of the total votes of the Association.

*ARTICLE XXXXII**Enforcement*

The Board of Trustees and any person who now owns or who may hereafter own property in the subdivision, are specifically given the right to enforce these covenants through any proceeding, at law or in equity, against any person or persons violating or threatening to violate such restrictions, and to enjoin or prohibit any such violation and to recover any damages suffered by them from any violation of such restrictions. This specific right of enforcement shall be cumulative and is not intended to include any other remedy that may be available to any person in law or in equity. Any person or persons who bring a successful action to enforce these covenants shall be entitled to recover their reasonable attorney's fees incurred in prosecuting such an action.

*ARTICLE XXXXIII**Indemnification*

The Association shall indemnify every officer, Trustee and committee member against any and all expenses, including counsel fees, reasonably incurred by or imposed upon such officer, Trustee, or committee member in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Trustees to which he or she may be a party by reason of being or having been an officer, Trustee, or committee member. The officers, Trustees, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual wilful misfeasance, malfeasance, misconduct, or bad faith. The officers and Trustees shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or Trustees may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and Trustee free and harmless against any and all liability to others on account of any such contract or

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commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, Trustee or committee member, or former officer, Trustee, or committee member may be entitled. The Association shall, as a common expense, maintain adequate general liability and officers' and Trustees' liability insurance to fund this obligation, if such insurance is reasonably available.

#### ARTICLE XXXXIV

##### *Easements of Encroachment*

There shall be reciprocal appurtenant easements of encroachment as between each Lot and such portion or portions of the Common Area adjacent thereto due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three (3) feet, as measured from any point on the common boundary along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to wilful and knowing conduct on the part of an Owner, tenant, or the Association.

#### ARTICLE XXXXV

##### *Severability*

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect.

#### ARTICLE XXXXVI

##### *Litigation*

No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of seventy-five (75%) percent of the Members. In the case of such a vote, and notwithstanding anything contained in this Article or the Articles or Bylaws to the contrary, this section shall not apply, to: (a) actions brought by the Association to enforce the provisions of this Article, (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments; (c) proceedings involving challenges to ad valorem taxation; or (d) counterclaims brought by the Association in proceedings instituted against it. This section shall not be amended unless such amendment is made by Declarant or is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings. 75P6132.1

provided above.

ARTICLE XXXXVII

Security

The Owners' Association will strive to maintain The Properties as a safe, secure, residential environment. HOWEVER, NEITHER THE OWNERS' ASSOCIATION NOR THE DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS, TENANTS, GUESTS, AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE OWNERS' ASSOCIATION AND THE DEVELOPER AND COMMITTEES ESTABLISHED BY ANY OF THE FOREGOING INVITEES ARE NOT INSURERS AND THAT EACH OWNER, TENANT, GUEST, AND INVITEE ASSUMES ALL RISK OF LOSS OR DAMAGE TO PERSONS, LOTS, AND TO THE CONTENTS OF LOTS AND FURTHER ACKNOWLEDGE THAT THE DEVELOPER HAS MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, TENANT, GUEST, OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE RELATIVE TO ANY SECURITY MEASURES RECOMMENDED OR UNDERTAKEN.

Declarant has executed this Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for The Summit at Ski Lake Gated Community the day and year first above written.

SKI LAKE CORPORATION, a Utah Corporation

By: *Ronald J. Catanzaro*  
Ronald J. Catanzaro, President

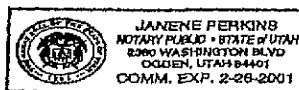
April 14, 2000

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STATE OF UTAH )  
 ) ss.  
COUNTY OF WEBER )

On the 14 day of April, 2000, personally appeared before me RONALD J. CATANZARO, who being by me duly sworn did say that he is the President of SKI LAKE CORPORATION, a Utah corporation, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors, and RONALD J. CATANZARO duly acknowledged to me that said corporation executed the same.

*Janene Perkins*  
NOTARY PUBLIC



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